

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

D

HOUSE BILL 97

Committee Substitute Favorable 5/18/15
Committee Substitute #2 Favorable 5/20/15
Committee Substitute #3 Favorable 5/20/15
Committee Substitute #4 Favorable 5/21/15
Fifth Edition Engrossed 5/22/15

PROPOSED SENATE COMMITTEE SUBSTITUTE H97-PCS40471-MDxfr-12

Short Title: 2015 Appropriations Act.

(Public)

Sponsors:

Referred to:

February 24, 2015

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

5 The General Assembly of North Carolina enacts:

6
7 **PART I. INTRODUCTION AND TITLE OF ACT**

8
9 **TITLE OF ACT**

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

12
13 **INTRODUCTION**

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

19
20 **PART II. CURRENT OPERATIONS AND EXPANSION GENERAL FUND**

21
22 **CURRENT OPERATIONS AND EXPANSION/GENERAL FUND**

23 **SECTION 2.1.** Appropriations from the General Fund of the State for the
24 maintenance of the State's departments, institutions, and agencies, and for other purposes as
25 enumerated, are made for the fiscal biennium ending June 30, 2017, according to the following
26 schedule:

27
28 **Current Operations – General Fund**

FY 2015-2016

FY 2016-2017

29
30 **EDUCATION**



* H 9 7 - P C S 4 0 4 7 1 - M D X F R - 1 2 *

General Assembly Of North Carolina**Session 2015**

| | | | |
|----|--|----------------------|----------------------|
| 1 | Community Colleges System Office | 1,051,528,672 | 1,050,528,672 |
| 2 | | | |
| 3 | Department of Public Instruction | 8,282,418,560 | 8,382,532,357 |
| 4 | | | |
| 5 | University of North Carolina – Board of Governors | | |
| 6 | Appalachian State University | 127,701,024 | 127,694,714 |
| 7 | East Carolina University | | |
| 8 | Academic Affairs | 210,407,112 | 210,739,558 |
| 9 | Health Affairs | 73,527,686 | 73,527,686 |
| 10 | Elizabeth City State University | 33,759,228 | 30,759,228 |
| 11 | Fayetteville State University | 48,741,530 | 48,741,530 |
| 12 | North Carolina A&T State University | 90,898,021 | 90,898,021 |
| 13 | North Carolina Central University | 82,132,848 | 82,132,848 |
| 14 | North Carolina State University | | |
| 15 | Academic Affairs | 392,256,502 | 392,249,291 |
| 16 | Agricultural Extension | 38,595,927 | 38,595,927 |
| 17 | Agricultural Research | 53,099,332 | 53,099,332 |
| 18 | University of North Carolina at Asheville | 37,592,283 | 37,592,283 |
| 19 | University of North Carolina at Chapel Hill | | |
| 20 | Academic Affairs | 251,265,861 | 251,265,861 |
| 21 | Health Affairs | 186,779,905 | 186,779,905 |
| 22 | AHEC | 47,182,678 | 47,182,678 |
| 23 | University of North Carolina at Charlotte | 198,971,605 | 198,971,605 |
| 24 | University of North Carolina at Greensboro | 143,459,427 | 143,459,427 |
| 25 | University of North Carolina at Pembroke | 53,184,870 | 53,192,105 |
| 26 | University of North Carolina at School of the Arts | 28,669,298 | 28,669,298 |
| 27 | University of North Carolina at Wilmington | 101,627,684 | 101,473,413 |
| 28 | Western Carolina University | 85,805,817 | 85,805,817 |
| 29 | Winston-Salem State University | 64,619,124 | 64,619,124 |
| 30 | General Administration | 37,256,706 | 37,256,706 |
| 31 | University Institutional Programs | 82,284,833 | 111,221,371 |
| 32 | Related Educational Programs | 108,168,501 | 108,168,501 |
| 33 | North Carolina School of Science & Math | 19,833,370 | 19,834,570 |
| 34 | Aid to Private Institutions | 117,219,754 | 115,219,754 |
| 35 | | | |
| 36 | Total University of North Carolina – | | |
| 37 | Board of Governors | 2,715,040,926 | 2,739,150,553 |
| 38 | | | |
| 39 | HEALTH AND HUMAN SERVICES | | |
| 40 | | | |
| 41 | Department of Health and Human Services | | |
| 42 | Central Management and Support | 116,500,781 | 130,139,186 |
| 43 | Division of Aging and Adult Services | 42,845,788 | 42,845,788 |
| 44 | Division of Services for the Blind, Deaf, | | |
| 45 | and Hard of Hearing | 8,098,207 | 8,098,207 |
| 46 | Division of Child Development and Early Education | 233,900,693 | 237,476,515 |
| 47 | Health Service Regulation | 15,462,135 | 14,902,628 |
| 48 | Division of Medical Assistance | 3,761,598,331 | 3,910,621,818 |
| 49 | Division of Mental Health, Developmental Disabilities, | | |
| 50 | and Substance Abuse Services | 519,096,709 | 502,439,890 |
| 51 | NC Health Choice | 13,373,219 | 1,590,592 |

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

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

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

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

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

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

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

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

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

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

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

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

| Budget Fund | | | FY 2016-2017 |
|--------------------|-------------|----------------------|---------------------|
| Code | Code | Description | Amount |
| 48 | 24160 | 2000 NC FICA Account | 641,628 |

49 **SECTION 2.2.(h)** Notwithstanding any other provision of law to the contrary,
50 effective June 30, 2015, the following amounts shall revert to the General Fund. These funds

1 shall be used to support the General Fund appropriations as specified in this act for the
2 2015-2016 fiscal year:

| Description | Amount |
|---|---------------|
| 3 | |
| 4 Department of Commerce – Job Catalyst Fund | \$ 20,000,000 |
| 5 Community Colleges – Yellow Ribbon | 1,000,000 |
| 6 UNC System – Yellow Ribbon | 4,863,276 |
| 7 Department of Public Safety – Broaden Access to Community Treatment | 1,479,744 |

8 **SECTION 2.2.(i)** Subsections (c), (d), (f), (h), and (i) of this section become
9 effective June 30, 2015.
10

11 **PART III. CURRENT OPERATIONS/HIGHWAY FUND**

12 **CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND**

13
14 **SECTION 3.1.** Appropriations from the State Highway Fund for the maintenance
15 and operation of the Department of Transportation and for other purposes as enumerated are
16 made for the fiscal biennium ending June 30, 2017, according to the following schedule:
17

| Current Operations – Highway Fund | FY 2015-2016 | FY 2016-2017 |
|--|-------------------------|-------------------------|
| 18 | | |
| 19 Department of Transportation | | |
| 20 Administration | \$ 112,492,808 | \$ 90,112,808 |
| 21 | | |
| 22 Division of Highways | | |
| 23 Administration | 33,467,959 | 33,467,959 |
| 24 Construction | 45,054,878 | 45,054,878 |
| 25 Maintenance | 1,207,773,807 | 1,237,538,168 |
| 26 Planning and Research | 0 | 0 |
| 27 OSHA Program | 358,030 | 358,030 |
| 28 | | |
| 29 State Aid to Municipalities | 147,500,000 | 150,000,000 |
| 30 | | |
| 31 Intermodal Divisions | | |
| 32 Ferry | 39,750,395 | 39,750,395 |
| 33 Public Transportation | 88,173,419 | 88,173,419 |
| 34 Aviation | 25,760,952 | 25,760,952 |
| 35 Rail | 23,651,674 | 23,651,674 |
| 36 Bicycle and Pedestrian | 726,895 | 726,895 |
| 37 | | |
| 38 Governor's Highway Safety | 251,241 | 251,241 |
| 39 Division of Motor Vehicles | 120,334,217 | 120,334,217 |
| 40 | | |
| 41 Other State Agencies, Reserves, Transfers | 54,283,569 | 54,134,470 |
| 42 | | |
| 43 Capital Improvements | 7,817,900 | 15,444,300 |
| 44 | | |
| 45 Total Highway Fund Appropriations | \$ 1,907,397,744 | \$ 1,924,759,406 |

46 **HIGHWAY FUND/AVAILABILITY STATEMENT**

47 **SECTION 3.2.** The Highway Fund availability used in developing the 2015-2017
48 fiscal biennial budget is shown below:
49
50
51

| | | | |
|----|--|-------------------------|-------------------------|
| 1 | | | |
| 2 | Highway Fund Availability Statement | FY 2015-2016 | FY 2016-2017 |
| 3 | Unreserved Fund Balance | \$ 0 | \$ 0 |
| 4 | Estimated Revenue | 1,969,300,000 | 1,934,200,000 |
| 5 | Adjustment to Revenue Availability: | | |
| 6 | Motor Fuel Tax (Shallow Draft Navigation | | |
| 7 | Channel Dredging and Lake Maintenance Fund) | 157,517 | 152,333 |
| 8 | Motor Fuel Tax (Wildlife Resources Fund) | 157,517 | 152,333 |
| 9 | Motor Fuel Tax (Noncommercial Leaking | | |
| 10 | Petroleum Underground Storage Tank | | |
| 11 | Cleanup Fund) | 0 | 1,540,000 |
| 12 | Motor Fuel Tax Distribution | (94,510,000) | (91,400,000) |
| 13 | Division of Motor Vehicles Fee Adjustments | 30,822,710 | 78,644,740 |
| 14 | Special Registration Plate Account | 1,470,000 | 1,470,000 |
| 15 | | | |
| 16 | Revised Total Highway Fund Availability | \$ 1,907,397,744 | \$ 1,924,759,406 |
| 17 | | | |
| 18 | Unappropriated Balance | \$ 0 | \$ 0 |
| 19 | | | |

PART IV. HIGHWAY TRUST FUND APPROPRIATIONS

HIGHWAY TRUST FUND APPROPRIATIONS

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

| | | | |
|----|--|-------------------------|-------------------------|
| 28 | Current Operations – Highway Trust Fund | FY 2015-2016 | FY 2016-2017 |
| 29 | | | |
| 30 | Program Administration | \$ 35,064,813 | \$ 35,064,813 |
| 31 | Turnpike Authority | 49,000,000 | 49,000,000 |
| 32 | Transfer to Highway Fund | 400,000 | 400,000 |
| 33 | Debt Service | 48,619,701 | 61,012,229 |
| 34 | Strategic Prioritization Funding Plan for | | |
| 35 | Transportation Investments | 1,185,145,486 | 1,189,802,958 |
| 36 | | | |
| 37 | Total Highway Trust Fund Appropriations | \$ 1,318,230,000 | \$ 1,335,280,000 |
| 38 | | | |

HIGHWAY TRUST FUND AVAILABILITY STATEMENT

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

| | | | |
|----|---|---------------------|---------------------|
| 44 | Highway Trust Fund Availability | FY 2015-2016 | FY 2016-2017 |
| 45 | Unreserved Fund Balance | \$ 0 | \$ 0 |
| 46 | Estimated Revenue | 1,215,900,000 | 1,221,200,000 |
| 47 | Adjustment to Revenue Availability: | | |
| 48 | Motor Fuel Tax Distribution | 94,510,000 | 91,400,000 |
| 49 | Motor Fuel Tax (Noncommercial Leaking Petroleum | | |
| 50 | Underground Storage Tank Cleanup Fund) | 0 | 660,000 |
| 51 | Division of Motor Vehicles Fee Adjustments | 3,650,000 | 12,020,000 |

| | | | |
|---|--|-------------------------|-------------------------|
| 1 | Highway Use Tax Adjustments | 4,170,000 | 10,000,000 |
| 2 | | | |
| 3 | Total Highway Trust Fund Availability | \$ 1,318,230,000 | \$ 1,335,280,000 |
| 4 | | | |
| 5 | Unappropriated Balance | \$ 0 | \$ 0 |
| 6 | | | |

7 PART V. OTHER APPROPRIATIONS

9 CASH BALANCES AND OTHER APPROPRIATIONS

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

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

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

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

42 OTHER RECEIPTS FROM PENDING GRANT AWARDS

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

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

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

7
 8 **EDUCATION LOTTERY FUNDS/EXPENSES OF THE LOTTERY/LIMIT ON**
 9 **REGIONAL OFFICES**

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

| | FY 2015-2016 | FY 2016-2017 |
|--|-----------------------|-----------------------|
| 12 Noninstructional Support Personnel | \$ 345,571,558 | \$ 361,666,883 |
| 13 Prekindergarten Program | 75,535,709 | 75,535,709 |
| 14 Public School Building Capital Fund | 100,100,000 | 100,000,000 |
| 15 Scholarships for Needy Students | 30,450,000 | 30,450,000 |
| 16 UNC Need-Based Financial Aid | 10,744,733 | 10,744,733 |
| 17 TOTAL | \$ 562,402,000 | \$ 578,397,325 |

18
 19
 20 **SECTION 5.2.(b)** The Education Lottery Fund availability used in developing the
 21 2015-2017 biennial budget is shown below:

| | FY 2015-2016 | FY 2016-2017 |
|--|-----------------------|-----------------------|
| 22 AVAILABILITY | | |
| 23 Revenue Based on Existing Policies | \$ 528,902,000 | \$ 533,397,325 |
| 24 Revenue from E-Instant Games | 2,000,000 | 13,500,000 |
| 25 Revenue from Additional Advertising | 31,500,000 | 31,500,000 |
| 26 TOTAL | \$ 562,402,000 | \$ 578,397,325 |

27
 28
 29 **SECTION 5.2.(c)** Notwithstanding G.S. 18C-164, the Office of State Budget and
 30 Management shall not transfer funds to the Education Lottery Reserve Fund for either year of
 31 the 2015-2017 fiscal biennium.

32 **SECTION 5.2.(d)** G.S. 18C-162(a) reads as rewritten:
 33 "**§ 18C-162. Allocation of revenues.**

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

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

48 **SECTION 5.2.(e)** Of the funds appropriated in this section to the Public School
 49 Building Capital Fund for the 2015-2016 fiscal year, the Office of State Budget and
 50 Management shall use up to one hundred thousand dollars (\$100,000) to contract with an
 51 outside entity (i) to perform an independent assessment of school construction needs in local

1 school administrative units in the 50 counties determined under the low-wealth school funding
 2 formula to have the lowest ability to pay for school facilities and (ii) to determine which of
 3 those units have the highest facility needs in relation to their capacity to raise revenue to meet
 4 those needs.

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

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

12
 13 **CIVIL PENALTY AND FORFEITURE FUND**

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

| | FY 2015-2016 | FY 2016-2017 |
|-------------------------------|----------------------|----------------------|
| 18 School Technology Fund | \$18,000,000 | \$18,000,000 |
| 19 State Public School Fund | 124,362,790 | 124,362,790 |
| 21 Total Appropriation | \$142,362,790 | \$142,362,790 |

22
 23 **SECTION 5.3.(b)** Excess receipts realized in the Civil Penalty and Forfeiture Fund
 24 in each year of the 2015-2017 fiscal biennium are appropriated to the School Technology Fund.

25
 26 **INDIAN GAMING EDUCATION REVENUE FUND**

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

31
 32 **MODIFY ELEMENTS OF CASH MANAGEMENT PLAN**

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

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

36 ...
 37 (4) Unpaid billings due to a State agency other than amounts owed by patients
 38 to the University of North Carolina Health Care System, East Carolina
 39 University's Division of Health Sciences, ~~or by~~ customers of the North
 40 Carolina Turnpike ~~Authority~~ Authority, or the North Carolina Department of
 41 Transportation shall be turned over to the Attorney General for collection no
 42 more than 90 days after the due date of the billing, except that a State agency
 43 need not turn over to the Attorney General unpaid billings of less than five
 44 hundred dollars (\$500.00), or (for institutions where applicable) amounts
 45 owed by all patients which are less than the federally established deductible
 46 applicable to Part A of the Medicare program, and instead may handle these
 47 unpaid bills pursuant to agency debt collection procedures.

48 ...
 49 (4b) The North Carolina Turnpike Authority and the North Carolina Department
 50 of Transportation may turn over to the Attorney General for collection

1 amounts owed to the North Carolina Turnpike ~~Authority~~ Authority or the
2 North Carolina Department of Transportation.

3"
4

5 PART VI. GENERAL PROVISIONS

6 CONTINGENCY AND EMERGENCY FUND LIMITATION

7 **SECTION 6.1.** For the 2015-2017 fiscal biennium and notwithstanding the
8 provisions of G.S. 143C-4-4(b), funds appropriated to the Contingency and Emergency Fund
9 may be used only for expenditures required (i) by a court or Industrial Commission order or (ii)
10 to respond to events as authorized under G.S. 166A-19.40(a) of the North Carolina Emergency
11 Management Act. These funds shall not be used for other statutorily authorized purposes or for
12 any other contingencies and emergencies.
13

14 ESTABLISHING OR INCREASING FEES

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

18 **SECTION 6.2.(b)** Notwithstanding G.S. 150B-21.1A(a), an agency may adopt an
19 emergency rule in accordance with G.S. 150B-21.1A to establish or increase a fee as authorized
20 by this act if the adoption of a rule would otherwise be required under Article 2A of Chapter
21 150B of the General Statutes.
22

23 STATE AGENCIES/REPORTS ON LEGISLATIVE LIAISONS AND SALARY 24 INFORMATION

25 **SECTION 6.4.** By September 1, 2015, the Office of State Budget and Management
26 shall report the following information to the chairs of the House of Representatives
27 Appropriations Committee, the chairs of the Senate Appropriations/Base Budget Committee,
28 and to the Fiscal Research Division:
29

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

- 1 a. The amount of salary reserve, by source, remaining in each fund
- 2 code on June 30 of fiscal year 2013-2014 and fiscal year 2014-2015.
- 3 b. The amount of lapsed salaries generated in fiscal year 2013-2014 and
- 4 fiscal year 2014-2015.
- 5 c. The Department's or Commission's policy on the use of salary
- 6 reserve and lapsed salaries.
- 7

8 **COMPENSATION FOR RESEARCH AND DEVELOPMENT**

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

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

18 **EXPENDITURES OF FUNDS IN RESERVES LIMITED**

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

21 **CLARIFY THE CONSULTATION REQUIREMENT BEFORE THE JOINT** 22 **LEGISLATIVE COMMISSION ON GOVERNMENTAL OPERATIONS WHEN A** 23 **STATE AGENCY ESTABLISHES OR INCREASES A FEE OR CHARGE**

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

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

45 **EMERGENCY AND DISASTER RESPONSE FUNDING CHANGES**

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

47 **"§ 166A-19.40. Use of contingency and emergency funds.**

48 (a) ~~Use of Funds for Relief and Assistance.~~ **Contingency and Emergency Funds.** – The
49 Governor may use contingency and emergency funds ~~as necessary and appropriate to provide~~
50

1 relief and assistance from the effects of an emergency and may reallocate such other funds as
 2 may reasonably be available within the appropriations of the various departments when the
 3 severity and magnitude of the emergency so requires and the contingency and emergency funds
 4 are insufficient or inappropriate.funds:

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

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

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

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

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

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

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

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

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

22 "**§ 166A-19.42. State Emergency Response and Disaster Relief Account.**

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

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

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

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

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

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

39 "...."

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

41 "**§ 166A-19.3. Definitions.**

42 The following definitions apply in this Article:

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

45 "...."

46 CONTINUATION REVIEW OF CERTAIN FUNDS/PROGRAMS/DIVISIONS

47 **SECTION 6.20.(a)** It is the intent of the General Assembly to review the funds,
 48 agencies, divisions, and programs financed by transfers from the Highway Fund. This process
 49 is known as the Continuation Review Program. The Continuation Review Program is intended
 50 to assist the General Assembly in determining whether to continue, reduce, or eliminate
 51

1 transfers from the Highway Fund for the funds, agencies, divisions, and programs subject to
2 continuation review.

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

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

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

- 35 (1) A description of the fund, agency, division, or program mission, goals, and
36 objectives, including statutorily required functions and functions performed
37 without specific statutory authority.
- 38 (2) The performance measures for the fund, agency, division, or program and
39 the problem or need addressed.
- 40 (3) The extent to which the fund, agency, division, or program objectives and
41 performance measures have been achieved.
- 42 (4) A detailed accounting of all sources of funds for the fund, agency, division,
43 or program.
- 44 (5) Recommendations for statutory, budgetary, or administrative changes
45 needed to improve efficiency and effectiveness of services delivered to the
46 public, including recommendations regarding whether to transfer the
47 program to the Division of Motor Vehicles or to elsewhere in the
48 Department of Transportation.
- 49 (6) The consequences of discontinuing funding or of continuing funding with a
50 source other than a transfer from the Highway Fund.
- 51 (7) Recommendations for improving services or reducing costs or duplication.

- 1 (8) The identification of policy issues that should be brought to the attention of
2 the General Assembly.
3 (9) Other information necessary to fully support the General Assembly's
4 Continuation Review Program along with any information included in
5 instructions from the Fiscal Research Division.

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

10
11 **LRC STUDY ON METHODS FOR INCREASING TRANSFERS TO THE SAVINGS
12 RESERVE ACCOUNT**

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

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

32 **SECTION 6.21.(b)** The LRC shall report its findings, together with any proposed
33 legislation, to the 2016 Regular Session of the 2015 General Assembly upon its convening.
34

35 **REQUIRE SETTLEMENT FUNDS IN EXCESS OF TEN MILLION DOLLARS TO BE
36 DEPOSITED IN THE SAVINGS RESERVE ACCOUNT**

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

38 "**§ 114-2.4A. Disposition of funds received by the State or a State agency from a
39 settlement or other final order or judgment of the court.**

40 ...

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

44 ...

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

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

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

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

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

15
16 **REQUIRE TRANSFER OF SAVINGS FROM THE REFINANCING OF CERTAIN**
17 **STATE DEBT TO BE TRANSFERRED TO THE SAVINGS RESERVE**

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

20 "**§ 142-15.4. Savings from refinancing of general obligation bonds to be placed in the**
21 **Savings Reserve Account.**

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

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

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

35 "**§ 142-96. Savings from refinancing of special indebtedness to be placed in the Savings**
36 **Reserve Account.**

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

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

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

50
51 **MSA CHANGES**

1 **SECTION 6.24.(a)** Section 6 of S.L. 1999-2, as amended by Section 6.11(d) of
2 Session Law 2011-145, Section 7(b) of Session Law 2011-391, and Section 6.4(b) of S.L.
3 2013-360, reads as rewritten:

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

7 (1a) Fourteen and six-tenths percent (14.6%) to The Golden L.E.A.F.
8 (Long-Term Economic Advancement Foundation), Inc., a nonprofit
9 corporation.

10 (1b) Eighty-five and four-tenths percent (85.4%) shall be credited to the
11 Settlement Reserve Fund.

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

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

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

23 **"§ 66-290. Definitions.**

24 As used in this Article:

25 ...

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

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

43 **"§ 66-291. Requirements.**

44 ...

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

51 "

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

2 "**§ 66-293. Sale of certain cigarettes prohibited.**

3 (a) Civil Penalty. – It is unlawful for a person required to pay taxes pursuant to Part 2 or
4 3 of Article 2A of Chapter 105 of the General Statutes to sell or deliver cigarettes belonging to
5 a brand family of a nonparticipating manufacturer if the sale of the cigarettes is subject to such
6 taxes unless the cigarettes are included on the compliant nonparticipating manufacturer's list
7 prepared and made public by the Office of the Attorney General under G.S. 66-294.1 as of the
8 date the person sells or delivers the cigarettes. It is not a violation of this subsection if the brand
9 family was on the compliant nonparticipating manufacturer's list when the person purchased the
10 cigarettes and the person sold or delivered the cigarettes within ~~60~~30 days of the purchase. The
11 Attorney General may impose a civil penalty on a person that it finds violates this subsection.
12 The amount of the penalty may not exceed the greater of five hundred percent (500%) of the
13 retail value of the cigarettes sold or five thousand dollars (\$5,000).

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

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

20 "**§ 66-294. Duties of manufacturers.**

21 ...
22 (b) Nonparticipating Manufacturers. – A nonparticipating manufacturer must:

23 ...
24 (7) Notwithstanding any other provision of law, if a newly qualified
25 nonparticipating manufacturer is to be listed in the North Carolina Tobacco
26 Directory (the Directory), or if the Attorney General reasonably determines
27 that any nonparticipating manufacturer who has filed a certification pursuant
28 to G.S. 66-291, et seq., poses an elevated risk for noncompliance with this
29 Article, neither such nonparticipating manufacturer nor any of its brand
30 families shall be included in the Directory unless and until such
31 nonparticipating manufacturer, or its United States importer that undertakes
32 joint and several liability for the manufacturer's performance in accordance
33 with G.S. 66-291, et seq., has posted a bond in accordance with this section.

34 The bond shall be posted by a corporate surety located within the United
35 States in a form and manner acceptable to the Attorney General, or a cash
36 equivalent posted by the nonparticipating manufacturer, in an amount equal
37 to the greater of fifty thousand dollars (\$50,000) or the greatest amount of
38 escrow the manufacturer in either its current or predecessor form was
39 required to deposit as a result of its highest calendar year's sales in North
40 Carolina or greatest quarterly escrow deposit depending on the
41 manufacturer's required escrow deposit frequency. The bond or its cash
42 equivalent shall be posted at least 10 days in advance of each calendar year
43 or quarter depending on the manufacturer's required escrow deposit
44 frequency. The bond shall be written in favor of North Carolina and such
45 bond or cash equivalent shall be conditioned on the performance by the
46 nonparticipating manufacturer or its United States importer that undertakes
47 joint and several liability for the manufacturer's performance in accordance
48 with G.S. 66-294.2, of all of its duties and obligations under this Article
49 during the year in which the certification is filed and the next succeeding
50 calendar year. The bond may be drawn upon by the Attorney General to

1 cover unsatisfied escrow obligations, penalties, and any other liability under
 2 the tobacco laws of the State.

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

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

22 **"§ 66-294.1. Duties of Attorney General.**

23 ...

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

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

39"

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

42 **"§ 66-294.2 Joint and several liability of importers of cigarettes manufactured by**
 43 **nonparticipating manufacturers located outside the United States.**

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

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

1 "§ 105-259. Secrecy required of officials; penalty for violation.

2 ...
 3 (b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has
 4 access to tax information in the course of service to or employment by the State may not
 5 disclose the information to any other person except as provided in this subsection. Standards
 6 used or to be used for the selection of returns for examination and data used or to be used for
 7 determining the standards may not be disclosed for any purpose. All other tax information may
 8 be disclosed only if the disclosure is made for one of the following purposes:

9 ...
 10 (40a) To furnish a data clearinghouse the information required to be released in
 11 accordance with the State's agreement under the December 2012 Term Sheet
 12 Settlement, as finalized by the State in the NPM Adjustment Settlement
 13 Agreement, concerning annual tobacco product sales by a nonparticipating
 14 manufacturer. Such information released to a data clearinghouse may be
 15 released to parties to the NPM Adjustment Settlement Agreement provided
 16 confidentiality protections are agreed to by the parties and overseen and
 17 enforced by this State's applicable court for enforcement of the Master
 18 Settlement Agreement for (i) any state information constituting confidential
 19 tax information or otherwise confidential under state law and (ii)
 20 manufacturer information designated confidential. The following definitions
 21 apply in this subdivision:

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

32"

33
 34 **ALIGN AGENCY BUDGETS TO ACTUAL EXPENDITURES**

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

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

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

- 5 a. Fund legal obligations of the agency that have been funded with
6 lapsed salaries in prior years.
7 b. Fund operational requirements directly related to the health, safety,
8 or well-being of individuals in the care or custody of the State that
9 have been funded with lapsed salaries in prior years.
10 c. Fund legal obligations of the agency or operational requirements
11 directly related to the health, safety, or well-being of individuals in
12 the care or custody of the State that have been funded with other
13 nonrecurring sources in prior years.
14 d. Fund operational deficiencies where the obligation cannot be reduced
15 and where no other source of funding exists and failure to fund will
16 result in operational disruptions or unfunded liabilities at fiscal
17 year-end.

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

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

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

- 33 (1) A list of positions abolished pursuant to subdivision (1) of subsection (a) of
34 this section.
35 (2) A list of positions that were exempted from being abolished pursuant to
36 subdivision (1) of subsection (a) of this section.
37 (3) A list of objects or line items funded pursuant to subdivision (2) of
38 subsection (a) of this section and the associated amount for each object or
39 line item.
40 (4) The amount of lapsed salaries transferred to the Savings Reserve Account
41 and used for other purposes pursuant to subsection (b) of this section.
42 (5) The amount and disposition of savings from the Highway Fund, federal
43 funds, and other non-State agency dedicated receipt sources.
44 (6) A list of objects or line items that were not funded because the funds
45 generated pursuant to subdivision (1) of this subsection were insufficient.

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

50 CAP STATE FUNDED PORTION OF NONPROFIT SALARIES

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

6
 7 **PART VII. INFORMATION TECHNOLOGY**

8
 9 **INFORMATION TECHNOLOGY FUND**

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

| | FY 2015-2016 | FY 2016-2017 |
|---|---------------------|---------------------|
| 15 General Fund Appropriation for IT Fund | \$22,381,854 | \$22,381,854 |

16
 17 Appropriations are made from the Information Technology Fund for the 2015-2017 fiscal
 18 biennium as follows:

| | | |
|---|-------------|-------------|
| 20 Criminal Justice Information Network | \$193,085 | \$193,085 |
| 21 Center for Geographic Information and Analysis | \$503,810 | \$503,810 |
| 22 Enterprise Security Risk Management | \$871,497 | \$871,497 |
| 23 Staffing and Strategic Projects | \$7,573,903 | \$7,573,903 |
| 24 First Net (State Match) | \$140,000 | \$140,000 |
| 25 Enterprise Project Management Office | \$1,501,234 | \$1,501,234 |
| 26 IT Strategy and Standards | \$865,326 | \$865,326 |
| 27 State Portal | \$233,510 | \$233,510 |
| 28 Process Management | \$398,234 | \$398,234 |
| 29 IT Consolidation | \$1,000,000 | \$1,000,000 |
| 30 Government Data Analytics Center | \$9,101,255 | \$9,101,255 |

31
 32 Unless a change is approved by the State Chief Information Officer after
 33 consultation with the Office of State Budget and Management, funds appropriated to the
 34 Information Technology Fund shall be spent only as specified in this section. Changes shall not
 35 result in any degradation to the information technology operations or projects listed in this
 36 section for which the funds were originally appropriated.

37 Any changes to the specified uses shall be reported in writing to the chairs of the
 38 Joint Legislative Oversight Committee on Information Technology, the chair and cochair of the
 39 House Appropriations Committee on Information Technology, and the Fiscal Research
 40 Division.

41
 42 **INFORMATION TECHNOLOGY INTERNAL SERVICE FUND**

43 **SECTION 7.2.(a)** IT Internal Service Fund. – For the 2015-2016 fiscal year,
 44 receipts for the IT Internal Service Fund shall not exceed one hundred eighty-one million eight
 45 hundred thirty-five thousand nine hundred thirteen dollars (\$181,835,913). For fiscal year
 46 2016-2017, receipts for the Internal Service Fund shall not exceed one hundred eighty-eight
 47 million two hundred seventy-four thousand five hundred five dollars (\$188,274,505). For each
 48 year of the 2015-2017 fiscal biennium, receipts may be increased for specific purposes to a
 49 maximum of one hundred ninety-five million dollars (\$195,000,000), following consultation
 50 with the Joint Legislative Commission on Governmental Operations each time a requirement
 51 for an increase is identified. Rates approved by the Office of State Budget and Management
 52 (OSBM) to support the IT Internal Service Fund shall be based on this fund limit. In the event

1 the Fund exceeds the required limit, rates shall be adjusted within 30 days. The Internal Service
2 Fund may also collect in each year of the 2015-2017 fiscal biennium two hundred nineteen
3 thousand seven hundred ninety-one dollars (\$219,791) to fund Workers' Compensation and up
4 to one million five hundred forty-nine thousand seven hundred twenty-nine dollars
5 (\$1,549,729) over the biennium to fund FirstNet.

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

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

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

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

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

46 **SECTION 7.2.(g)** Statewide information technology procurement shall be funded
47 through a combination of administrative fees as part of the IT Supplemental Staffing contract,
48 as well as fees charged to agencies using the services of the Statewide Information Technology
49 Procurement Office. The Department shall provide to the OSBM a fee schedule to allow cost
50 recovery. If an agency fails to pay for services within 30 days of billing, OSBM shall transfer

1 the unpaid amount to the State Information Technology Procurement Office, following
2 notification of the affected agency.

4 INFORMATION TECHNOLOGY RESERVE

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

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

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

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

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

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

43 INFORMATION TECHNOLOGY ENTERPRISE ARCHITECTURE

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

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

DEPARTMENT OF INFORMATION TECHNOLOGY PERFORMANCE MEASURES

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

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

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

ELECTRONIC FORMS AND DIGITAL SIGNATURES

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

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

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

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

STATE INFORMATION TECHNOLOGY BUDGETING

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

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

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

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

BUDGETARY TRANSPARENCY/EXPENDITURES ONLINE

SECTION 7.17. The State Chief Information Officer shall establish an Internet Web site to provide information on the Department of Information Technology budget and actual expenditures. The Internet Web site shall be fully functional by April 1, 2016. The State CIO shall make the site user-friendly with easy-to-use search features and data provided in formats that can be readily downloaded and analyzed by the public. The information shall list expenditures based on DIT budget codes. The information provided shall include receipts and expenditures from and to all sources, including vendor payments, updated on a monthly basis.

MULTIYEAR IT CONTRACTS

SECTION 7.18. Notwithstanding the cash management provisions of G.S. 147-86.11, the Department of Information Technology, as created by this act, 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.

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

5 6 **INFORMATION TECHNOLOGY SECURITY/TWO-FACTOR AUTHENTICATION**

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

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

16 17 **DATA SECURITY STUDY**

18 **SECTION 7.20.** The Joint Legislative Oversight Committee on Information
19 Technology shall study liability issues associated with data security in both the public and
20 private sectors. The Committee shall report its findings and any legislative proposals pertaining
21 to liability issues associated with data security to the General Assembly on or before April 1,
22 2016.

23 24 **LAW ENFORCEMENT INFORMATION EXCHANGE**

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

29 30 **ENTERPRISE RESOURCE PLANNING**

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

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

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

48 49 **STATE BROADBAND PLAN**

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

- 1 (1) Information regarding the availability and functionality of broadband
2 throughout the State and an evaluation of the current deployment of
3 broadband service.
- 4 (2) A strategy to support the affordability of broadband service as well as
5 maximum utilization of broadband infrastructure, including potential
6 partnerships and sources of funding to support the effort.
- 7 (3) Analysis of means, methods, and best practices to establish universal
8 broadband access across the State.

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

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

15 16 **STATE PORTAL/ECONOMIC DEVELOPMENT/BUSINESS WEB SITE PLAN**

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

- 22 (1) The capabilities necessary to complete required business transactions
23 electronically, to include the availability of electronic forms and digital
24 signatures.
- 25 (2) How the State CIO will ensure secure access to any and all information and
26 services required to facilitate the operation of businesses within the State.
- 27 (3) Potential sources of funding to support the development and implementation
28 of the Web site.

29 **SECTION 7.24.(b)** On or before December 1, 2015, the State CIO shall provide
30 the completed plan to the Joint Legislative Oversight Committee on Information Technology
31 and the Fiscal Research Division. On or before December 1, 2015, and then at least
32 semiannually for the duration of the 2015-2017 fiscal biennium, the State CIO shall provide
33 progress reports regarding the establishment and use of the business Internet Web site to the
34 Joint Legislative Oversight Committee on Information Technology and the Fiscal Research
35 Division.

36 37 **AGENCY USE OF ENTERPRISE ACTIVE DIRECTORY**

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

44 45 **STUDY STATE AGENCY USE OF UTILITY-BASED COMPUTING**

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

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

9 **SECTION 7.26.(b)** By October 1, 2015, the State Chief Information Officer shall
10 make a written report to the Joint Legislative Oversight Committee on Information Technology
11 on the results of the DIT review of utility-based computing.
12

13 **STATE FUNDED IT CONTRACTS**

14 **SECTION 7.27.** For all information technology contracts that receive any State
15 funds, State agencies and vendors shall immediately provide copies of contract documents and
16 any subsequent amendments, modifications, or other changes upon request of the Joint
17 Legislative Oversight Committee on Information Technology or the Fiscal Research Division.
18

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

20 **ESTABLISH DEPARTMENT OF INFORMATION TECHNOLOGY**

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

33 **SECTION 7A.1.(b)** The following transfers from the Office of Information
34 Technology Services are made to the Department of Information Technology created by this
35 act:
36

- 37 (1) A Type I transfer, as defined in G.S. 143A-6, of the:
38 a. Office of the State Chief Information Officer.
39 b. Office of Information Technology Services.
- 40 (2) A Type II transfer, as defined in G.S. 143A-6, of the:
41 a. 911 Board.
42 b. Criminal Justice Information Network.
43 c. Government Data Analytics Center.
44 d. North Carolina Geographic Information Coordinating Council and
45 the Center for Geographic Information and Analysis.

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

47 **"§ 143B-2. Interim applicability of the Executive Organization Act of 1973.**

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

- 50 ...
- 51 (11) Department of Information Technology."

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

2 "**§ 143B-6. Principal departments.**

3 In addition to the principal departments enumerated in the Executive Organization Act of
4 1971, all executive and administrative powers, duties, and functions not including those of the
5 General Assembly and its agencies, the General Court of Justice and the administrative
6 agencies created pursuant to Article IV of the Constitution of North Carolina, and higher
7 education previously vested by law in the several State agencies, are vested in the following
8 principal departments:

9 ...
10 (12) Department of Information Technology."

11
12 **STATUTORY CHANGES CREATING THE DEPARTMENT OF INFORMATION**
13 **TECHNOLOGY**

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

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

17 "Article 14.

18 "Department of Information Technology.

19 "Part 1. General Provisions.

20 "**§ 143B-1300. Definitions; scope; exemptions.**

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

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

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

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

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

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

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

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

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

37 (9) Information technology or IT. – Set of tools, processes, and methodologies,
38 including, but not limited to, coding and programming, data
39 communications, data conversion, data analysis, architecture, planning,
40 storage and retrieval, systems analysis and design, systems control, mobile
41 applications, and associated equipment employed to collect, process, and
42 present information to support the operation of an organization. The term
43 also includes office automation, multimedia, telecommunications, and any
44 personnel and support personnel required for planning and operations.

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

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

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

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

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

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

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

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

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

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

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

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

32 (d) Review. – Notwithstanding subsection (b) of this section, any State agency shall
33 review and evaluate any deviation authorized and shall, in consultation with the Department of
34 Information Technology, adopt a plan to phase out any deviations that the State CIO
35 determines to be unnecessary in carrying out functions and responsibilities unique to the
36 agency having a deviation. The plan adopted by the agency shall include a strategy to
37 coordinate its general information processing functions with the Department of Information
38 Technology in the manner prescribed by this act, and provide for its compliance with policies,
39 procedures, and guidelines adopted by the Department of Information Technology. Any agency
40 receiving a deviation shall submit its plan to the Office of State Budget and Management as
41 directed by the State Chief Information Officer.

42 **"§ 143B-1301. Powers and duties of the Department; cost-sharing with exempt entities.**

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

44 (1) Provide information technology support to executive branch agencies.

45 (2) Provide such information technology support to local government entities
46 and others, as may be required.

47 (3) Plan and coordinate information technology efforts with State agencies,
48 nonprofits, and private organizations, as required.

49 (4) Establish a consistent process for planning, maintaining, and acquiring the
50 State's information technology resources. This includes responsibility for

- 1 developing and administering a comprehensive long-range plan to ensure the
2 proper management of the State's information technology resources.
- 3 (5) Develop standards and accountability measures for information technology
4 projects, including criteria for effective project management.
- 5 (6) Set technical standards for information technology, review and approve
6 information technology projects and budgets, establish information
7 technology security standards, provide for the procurement of information
8 technology resources, and develop a schedule for the replacement or
9 modification of information technology systems.
- 10 (7) Implement enterprise procurement processes and develop metrics to support
11 this process.
- 12 (8) Manage the information technology funding for State agencies, to include
13 the Information Technology Fund for statewide information technology
14 efforts and the Information Technology Internal Service Fund for agency
15 support functions.
- 16 (9) Support, maintain, and develop metrics for the State's technology
17 infrastructure and facilitate State agencies' delivery of services to citizens.
- 18 (10) Operate as the State enterprise organization for information technology
19 governance.
- 20 (11) Advance the State's technology and data management capabilities.
- 21 (12) Prepare and present the Department's budget in accordance with Chapter
22 143C of the General Statutes, the State Budget Act.
- 23 (13) Obtain, review, and maintain, on an ongoing basis, records of the
24 appropriations, allotments, expenditures, revenues, grants, and federal funds
25 for each State agency for information technology.
- 26 (14) Adopt rules for the administration of the Department and implementing this
27 Article, pursuant to the Administrative Procedures Act, Chapter 150B of the
28 General Statutes.
- 29 (15) Require reports by State agencies, departments, and institutions about
30 information technology assets, systems, personnel, and projects and
31 prescribing the form of such reports.
- 32 (16) Prescribe the manner in which information technology assets, systems, and
33 personnel shall be provided and distributed among agencies, to include
34 changing the distribution when the State CIO determines that is necessary.
- 35 (17) Prescribe the manner of inspecting or testing information technology assets,
36 systems, or personnel to determine compliance with information technology
37 plans, specifications, and requirements.
- 38 (18) Submit all rates and fees for common, shared, and State government-wide
39 technology services provided by the Department to the Office of State
40 Budget and Management for approval.
- 41 (19) Establish and operate centers of expertise for specific information
42 technologies and services to serve two or more agencies on a cost-sharing
43 basis, if the State CIO, after consultation with the Office of State Budget and
44 Management, decides it is advisable from the standpoint of efficiency and
45 economy to establish these centers and services.
- 46 (20) Charge each State agency for which services are performed its proportionate
47 part of the cost of maintaining and operating the shared centers and services,
48 subject to approval by the Office of State Budget and Management.
- 49 (21) Require any State agency served to transfer to the Department ownership,
50 custody, or control of information-processing equipment, supplies, and
51 positions required by the shared centers and services.

- 1 (22) Identify and develop projects to facilitate the consolidation of information
2 technology equipment, support, and projects.
- 3 (23) Identify agency to serve as the lead for an enterprise effort, when
4 appropriate.
- 5 (24) Develop performance standards for shared services in coordination with
6 supported State agencies, and publish performance reports on the
7 Department Web site.
- 8 (25) Adopt plans, policies, and procedures for the acquisition, management, and
9 use of information technology resources in State agencies to facilitate more
10 efficient and economic use of information technology in the agencies.
- 11 (26) Develop and manage career progressions and training programs to
12 efficiently implement, use, and manage information technology resources
13 throughout State government.
- 14 (27) Provide local government entities with access to the Department's services as
15 authorized in this section for State agencies. Access shall be provided on the
16 same cost basis that applies to State agencies.
- 17 (28) Support the operation of the CGIA, GICC, GDAC, CJIN, and 911 Board.
- 18 (29) Provide geographic information systems services through the Center for
19 Geographic Information and Analysis on a cost recovery basis. The
20 Department and the Center for Geographic Information and Analysis may
21 contract for funding from federal or other sources to conduct or provide
22 geographic information systems services for public purposes.
- 23 (30) Support the development, implementation, and operation of an Education
24 Community of Practice.
- 25 (b) Cost-Sharing with Other Branches. – Notwithstanding any other provision of law to
26 the contrary, the Department shall provide information technology services on a cost-sharing
27 basis to exempt agencies, upon request.
- 28 **§ 143B-1302. State CIO duties and Departmental administration.**
- 29 (a) State CIO. – The State CIO is the head of the Department and a member of the
30 Governor's cabinet. The State CIO shall be qualified by education and experience for the office.
31 The State CIO shall be appointed by and serve at the pleasure of the Governor. The salary of
32 the State CIO shall be set by the Governor. The State CIO shall receive longevity pay on the
33 same basis as is provided to employees of the State who are subject to the North Carolina
34 Human Resources Act.
- 35 (b) Administration. – The Department shall be managed under the administration of the
36 State CIO. The State CIO shall have the power and duty to do all of the following:
- 37 (1) Ensure that executive branch agencies receive all required information
38 technology support in an efficient and timely manner.
- 39 (2) Ensure that such information technology support is provided to local
40 government entities and others, as appropriate.
- 41 (3) As required, plan and coordinate information technology efforts with State
42 agencies, nonprofits, and private organizations.
- 43 (4) Ensure the security of State information technology systems and networks,
44 as well as associated data, developing standardized systems and processes.
- 45 (5) Prepare and present the Department's budget in accordance with Chapter
46 143C of the General Statutes, the State Budget Act.
- 47 (6) Establish rates for all goods and services provided by the Department within
48 required schedules.
- 49 (7) Identify and work to consolidate duplicate information technology
50 capabilities.

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

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

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

38 **"§ 143B-1303. Divisions and units of the Department.**

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

- 40 (1) Statewide Information Technology Division.
- 41 (2) Shared Services Division.
- 42 (3) Administrative and Finance Division.

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

- 46 (1) Statewide strategic planning.
- 47 (2) Statewide information technology procurement.
- 48 (3) Information technology project management.
- 49 (4) Statewide information technology strategies and standards (enterprise
50 architecture).
- 51 (5) Data analytics.

- 1 (6) Digital support to include Web support, mobile support, and social media
2 support (State portal).
3 (7) Solution architecture.
4 (8) Requirements analysis.

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

- 9 (1) Network Infrastructure.
10 (2) Hosting Infrastructure.
11 (3) Telephony and call center services.
12 (4) Client computing.
13 (5) Electronic mail.
14 (6) Identity Management.
15 (7) Quality assurance testing.
16 (8) Document management.
17 (9) Project management staffing.
18 (10) Primary and secondary data centers operation.

19 (d) Administration and Finance Division. – There is hereby created within the
20 Department the Administration and Finance Division. The Administration and Finance
21 Division shall provide:

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

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

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

- 36 (1) Center for Geographic Information and Analysis.
37 (2) Criminal Justice Information Network.
38 (3) Government Data Analytics Center.
39 (4) North Carolina 911 Board.
40 (5) North Carolina Geographic Information Coordinating Council.

41 **"§ 143B-1304. State agency information technology management; deviations for State**
42 **agencies.**

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

- 46 (1) Administrative support.
47 (2) Facilities management.
48 (3) Internal auditing.
49 (4) Boards administration.
50 (5) Departmental policies and procedures.

51 **"§ 143B-1305. Transition to Department of Information Technology.**

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

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

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

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

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

- 35 (1) Department of Public Safety.
- 36 (2) Governor's Office.
- 37 (3) Department of Environment and Natural Resources.
- 38 (4) Office of State Budget and Management.
- 39 (5) Office of State Human Resources.
- 40 (6) Department of Cultural Resources.
- 41 (7) Department of Commerce.

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

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

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

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

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

9 **"§ 143B-1306. Planning and financing State information technology resources.**

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

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

25 (2) The State CIO shall develop a biennial State Information Technology Plan
26 (Plan).

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

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

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

37 (1) Anticipated requirements for information technology support over the next
38 five years.

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

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

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

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

50 (c) Each participating agency shall actively participate in preparing, testing, and
51 implementing an information technology plan required under subsection (b) of this section.

1 Separate agencies shall prepare biennial information technology plans including the
2 requirements listed in subsection (b) and transmit these plans to the State CIO by October 1 of
3 each even-numbered year. Agencies shall provide all financial information to the State CIO
4 necessary to determine full costs and expenditures for information technology assets and
5 resources provided by the agencies or through contracts or grants. The Department shall consult
6 with and assist State agencies in the preparation of these plans; shall provide appropriate
7 personnel or other resources to the principal departments identified in G.S. 143B-6; and to
8 Council of State agencies upon request pursuant to Part 3, Shared Information Technology
9 Services, of this Article. Plans shall be submitted to the State CIO of Information Technology
10 by October 1 of each even-numbered year.

11 **"§ 143B-1307. Business continuity planning.**

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

- 18 (1) Consider the organizational, managerial, and technical environments in
19 which the disaster recovery plan must be implemented.
- 20 (2) Assess the types and likely parameters of disasters most likely to occur and
21 the resultant impacts on the agency's ability to perform its mission.
- 22 (3) List protective measures to be implemented in anticipation of a natural or
23 man-made disaster.
- 24 (4) Determine whether the plan is adequate to address information technology
25 security incidents.

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

28 **"§ 143B-1308. Information Technology Fund.**

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

43 **"§ 143B-1309. Internal Service Fund.**

44 (a) The Internal Service Fund is established within the Department as a fund to provide
45 goods and services to State agencies on a cost-recovery basis. The Department shall establish
46 fees for subscriptions and chargebacks for consumption-based services. The State CIO shall
47 establish and annually update consistent, fully transparent, easily understandable fees and rates
48 that reflect industry standards for any good or service for which an agency is charged. These
49 fees and rates shall be prepared by October 1 and shall be approved by the Office of State
50 Budget and Management. The Office of State Budget and Management shall ensure that State
51 agencies have the opportunity to adjust their budgets based on any rate or fee changes prior to

1 submission of those budget recommendations to the General Assembly. The approved
2 Information Technology Internal Service Fund budget and associated rates shall be included in
3 the Governor's budget recommendations to the General Assembly.

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

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

14 **"§ 143B-1310. Information technology reporting.**

15 The State CIO shall report to the Joint Legislative Oversight Committee on Information
16 Technology and to the Fiscal Research Division regarding the Information Technology Fund,
17 the Internal Service Fund, and any Information Technology Reserve Fund on a quarterly basis,
18 no later than the first day of the second month following the end of the quarter. The report shall
19 include current cash balances, line-item detail on expenditures from the previous quarter, and
20 anticipated expenditures and revenues over the next year, by quarter. The State CIO shall report
21 to the Joint Legislative Oversight Committee on Information Technology and the Fiscal
22 Research Division on expenditures for the upcoming quarter, projected year-end balance, and
23 the status report on personnel position changes, including new positions created and existing
24 positions eliminated. Spending reports shall comply with the State Accounting System object
25 codes.

26 **"§ 143B-1311. Financial reporting and accountability for information technology**
27 **investments and expenditures.**

28 The Department, along with the Office of State Budget and Management and the Office of
29 the State Controller, shall develop processes for budgeting and accounting of expenditures for
30 information technology operations, services, projects, infrastructure, and assets for State
31 agencies, notwithstanding any deviations permitted pursuant to G.S. 143B-1303(b) or
32 G.S. 143B-1303(c). The budgeting and accounting processes may include hardware, software,
33 personnel, training, contractual services, and other items relevant to information technology,
34 and the sources of funding for each. Annual reports regarding information technology shall be
35 coordinated by the Department with the Office of State Budget and Management and the Office
36 of the State Controller and submitted to the Governor and the General Assembly on or before
37 October 1 of each year.

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

41 The State CIO shall review the information technology budgets for principal departments
42 and shall recommend appropriate adjustments to support requirements identified by the State
43 CIO.

44 **"§ 143B-1312. Information technology human resources.**

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

49 (b) The State CIO may appoint a deputy State CIO for each of the three divisions within
50 the Department, each of whom shall be under the control and direction of the State CIO. The

1 salaries of the deputy secretaries shall be set by the State CIO. The State CIO and the deputy
2 secretaries are exempt from the North Carolina Human Resources Act.

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

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

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

11 (2) An inventory of current agency information technology personnel and their
12 skills.

13 (3) Analysis and documentation of the gaps between current personnel and
14 identified requirements.

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

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

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

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

21 (e) Participating agency information technology personnel performing information
22 technology functions shall be moved to the Department. The State CIO shall consolidate
23 participating agency information technology personnel following the time line established in
24 this Article once a detailed plan has been developed for transitioning the personnel to the new
25 agency.

26 (f) The State CIO shall establish standard information technology career paths for both
27 management and technical tracks, including defined qualifications, career progression, training
28 requirements, and appropriate compensation. For information technology procurement
29 professionals, the State CIO shall establish a career path that includes defined qualifications,
30 career progression, training requirements, and appropriate compensation. These career paths
31 shall be documented by December 1, 2015, and shall be provided to the Joint Legislative
32 Oversight Committee on Information Technology and the Fiscal Research Division by
33 December 1, 2015. The career paths shall be updated on an annual basis.

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

40 (h) Criminal Records Checks. – The State CIO shall require background investigations
41 of any employee or prospective employee, including a criminal history record check, which
42 may include a search of the State and National Repositories of Criminal Histories based on the
43 person's fingerprints. A criminal history record check shall be conducted by the State Bureau of
44 Investigation upon receiving fingerprints and other information provided by the employee or
45 prospective employee. If the employee or prospective employee has been a resident of the State
46 for less than five years, the background report shall include a review of criminal information
47 from both the State and National Repositories of Criminal Histories. The criminal background
48 report shall be provided to the State CIO and is not a public record under Chapter 132 of the
49 General Statutes.

50 "Part 3. Information Technology Projects and Management.

51 "§ 143B-1318. Project Management.

1 (a) Overall Management. – All information technology projects shall be managed
2 through a standardized, fully documented process established and overseen by the State CIO.
3 The State CIO shall be responsible for ensuring that participating agency information
4 technology projects are completed on time, within budget, and meet all defined business
5 requirements upon completion. For separate agency projects, the State CIO shall ensure that
6 projects follow the Department's established process and shall monitor schedule, budget, and
7 adherence to business requirements. For all projects, the State CIO shall establish procedures to
8 limit the need for change requests and shall report on this process to the Joint Legislative
9 Oversight Committee on Information Technology and the Fiscal Research Division by October
10 1, 2015. The State CIO shall also ensure that agency information technology project
11 requirements are documented in biennial information technology plans. If an agency updates a
12 biennial information technology plan to add a new project, the State CIO shall immediately
13 report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal
14 Research Division on the reasons for the new requirement, the costs, and the sources of
15 funding.

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

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

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

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

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

46 (f) Performance Contracting. – All contracts between the State and a private party for
47 information technology projects shall include provisions for vendor performance review and
48 accountability, contract suspension or termination, and termination of funding. The State CIO
49 may require that these contract provisions include a performance bond, monetary penalties, or
50 require other performance assurance measures for projects that are not completed within the
51 specified time period or that involve costs in excess of those specified in the contract. The State

1 CIO may utilize cost-savings realized on government vendor partnerships as performance
2 incentives for an information technology vendor.

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

13 **"§ 143B-1319. Project management standards.**

14 (a) The State CIO shall establish standardized documentation requirements for agency
15 projects to include requests for proposal and contracts. The State CIO shall establish standards
16 for project managers and project management assistants. The State CIO shall develop
17 performance measures for project reporting and shall make this reporting available through a
18 publicly accessible Web site.

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

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

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

41 The project management assistant shall advise the agency with the initial planning of a
42 project, the content and design of any request for proposals, contract development,
43 procurement, and architectural and other technical reviews. The project management assistant
44 shall also monitor progress in the development and implementation of the project and shall
45 provide status reports to the agency and the State CIO of Information Technology, including
46 recommendations regarding continued approval of the project.

47 The State CIO shall establish a clearly defined, standardized process for project
48 management that includes timelines for completion of process requirements for both the
49 Department and agencies. The State CIO shall also establish reporting requirements for
50 information technology projects, both during the planning, development, and implementation
51 process, and following completion of the project. The State CIO shall continue to monitor

1 system performance and financial aspects of each project after implementation and shall report
2 to the Joint Legislative Oversight Committee on Information Technology and the Fiscal
3 Research Division when there is more than a five percent (5%) variance in a completed
4 project's operations and maintenance costs or if a project does not provide the forecasted return
5 on investment. The State CIO shall also monitor any certification process required for State
6 information technology projects and shall immediately report any issues associated with
7 certification processes to the Joint Legislative Oversight Committee on Information
8 Technology and the Fiscal Research Division.

9 **"§ 143B-1320. Dispute resolution.**

10 (a) Agency Request for Review. – In any instance where the State CIO has denied or
11 suspended the approval of an information technology project, has cancelled the project, or has
12 denied an agency's request for deviation, the affected State agency may request that the
13 Governor review the State CIO's decision. The agency shall submit a written request for review
14 to the Governor within 15 working days following the agency's receipt of the State CIO's
15 written grounds for denial, suspension, or cancellation. The agency's request for review shall
16 specify the grounds for its disagreement with the State CIO's determination. The agency shall
17 include with its request for review a copy of the State CIO's written grounds for denial or
18 suspension.

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

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

29 **"§ 143B-1321. Standardization.**

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

32 **"§ 143B-1322. Legacy applications.**

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

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

48 **"Part 4. Information Technology Procurement.**

49 **"§ 143B-1323. Procurement of information technology.**

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

1 Notwithstanding any other provision of law, the Department shall procure all information
2 technology goods and services for participating agencies and shall approve information
3 technology procurements for separate agencies. The State CIO may cancel or suspend any
4 agency information technology procurement that occurs without State CIO approval. If an
5 agency procures information technology goods or services without State CIO approval, the
6 agency shall be responsible for identifying a funding source that is not associated with
7 information technology fund codes.

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

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

15 (1) Purchase or contract for all information technology for participating State
16 agencies.

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

18 (3) Establish standardized, consistent processes, specifications, and standards
19 that shall apply to all information technology to be purchased, licensed, or
20 leased by State agencies and relating to information technology personal
21 services contract requirements for State agencies, including, but not limited
22 to, requiring convenience contracts to be rebid prior to termination without
23 extensions.

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

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

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

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

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

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

41 (d) Each State agency, separate agency, and participating agency shall furnish to the
42 State CIO when requested, and on forms as prescribed, estimates of all information technology
43 goods and services needed and required by such department, institution, or agency for such
44 periods in advance as may be designated by the State CIO. In addition to the report required, all
45 departments, institutions, or agencies of the State government shall furnish to the State CIO
46 when requested, and on forms as prescribed, actual expenditures for all goods and services
47 needed and required by the department, institution, or agency for such periods after the
48 expenditures have been made as may be designated by the State CIO.

49 (e) Confidentiality. – Contract information compiled by the Department shall be made a
50 matter of public record after the award of contract. Trade secrets, test data, similar proprietary

1 information, and security information protected under G.S. 132-6.1(c) or other law shall remain
2 confidential.

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

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

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

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

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

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

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

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

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

42 **"§ 143B-1324. Restriction on State agency contractual authority with regard to**
43 **information technology.**

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

50 (b) Notwithstanding any other provision of law, local governmental entities may use the
51 information technology programs, services, or contracts offered by the Department, including

1 information technology procurement, in accordance with the statutes, policies, and rules of the
2 Department.

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

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

9 **"§ 143B-1325. Unauthorized use of public purchase or contract procedures for private**
10 **benefit prohibited.**

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

14 (b) This prohibition shall not apply if:

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

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

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

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

26 **"§ 143B-1326. Financial interest of officers in sources of supply; acceptance of bribes.**

27 Neither the State CIO, any deputy State CIO, or any other policy-making or managerially
28 exempt personnel shall be financially interested, or have any personal beneficial interest, either
29 directly or indirectly, in the purchase of, or contract for, any information technology, nor in any
30 firm, corporation, partnership, or association furnishing any information technology to the State
31 government, or any of its departments, institutions, or agencies, nor shall any of these persons
32 or any other Department employee accept or receive, directly or indirectly, from any person,
33 firm, or corporation to whom any contract may be awarded, by rebate, gifts, or otherwise, any
34 money or anything of value whatsoever, or any promise, obligation, or contract for future
35 reward or compensation. Violation of this section is a Class F felony, and any person found
36 guilty of a violation of this section shall, upon conviction, be removed from State office or
37 employment.

38 **"§ 143B-1327. Certification that information technology bid submitted without collusion.**

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

42 **"§ 143B-1328. Award review.**

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

48 (b) Prior to submission for review pursuant to this section for any contract for
49 information technology being acquired for the benefit of an agency authorized to deviate from
50 this Article pursuant to G.S. 143B-1302(b), the State CIO shall review and approve the
51 procurement to ensure compliance with the established processes, specifications, and standards

1 applicable to all information technology purchased, licensed, or leased in State government,
2 including established procurement processes, and compliance with the State government-wide
3 technical architecture and standards established by the State CIO.

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

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

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

14 **"§ 143B-1329. Attorney General contract assistance.**

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

17 **"§ 143B-1330. Purchase of certain computer equipment and televisions by State agencies**
18 **and governmental entities prohibited.**

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

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

31 **"§ 143B-1331. Refurbished computer equipment purchasing program.**

32 (a) The Department of Information Technology and the Department of Administration,
33 with the administrative support of the Information Technology Strategic Sourcing Office, shall
34 offer State and local governmental entities the option of purchasing refurbished computer
35 equipment from registered computer equipment refurbishers whenever most appropriate to
36 meet the needs of State and local governmental entities.

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

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

45 (d) Participating computer equipment refurbishers must meet all procurement
46 requirements established by the Department of Information Technology and the Department of
47 Administration.

48 **"§ 143B-1332. Configuration and specification requirements same as for new computers.**

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

1 **"§ 143B-1333. Data on reliability and other issues; report.**

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

7 **"§ 143B-1334. Information technology procurement policy; reporting requirements.**

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

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

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

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

29 "Part 5. Data Centers.

30 **"§ 143B-1335. Data centers.**

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

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

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

44 "Part 6. Communications and Portal Services.

45 **"§ 143B-1336. Communications services.**

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

- 50 (1) Develop standards for a State network.

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

1 base such policies and plans on current information about State
2 telecommunications activities in relation to the full range of emerging
3 technologies.

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

6 **"§ 143B-1337. Communications services for local governmental entities and other**
7 **entities.**

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

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

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

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

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

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

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

34 **"§ 143B-1338. Statewide electronic portal; annual report.**

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

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

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

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

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

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

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

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

- 1 (7) Any other use of State data by the vendor and the total amount of revenue
2 collected per each use and in total.
3 (8) Customer satisfaction with each service.
4 (9) Any other issues associated with the provision of each service.

5 "Part 7. Security of Information Technology.

6 **"§ 143B-1339. Security.**

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

12 **"§ 143B-1340. Statewide security standards.**

13 The State CIO shall be responsible for the security of all State information technology
14 systems and associated data. The State CIO shall manage all executive branch information
15 technology security and shall establish a statewide standard for information technology security
16 to maximize the functionality, security, and interoperability of the State's distributed
17 information technology assets, including, but not limited to, data classification and
18 management, communications, and encryption technologies. The State CIO shall review and
19 revise the security standards annually. As part of this function, the State CIO shall review
20 periodically existing security standards and practices in place among the various State agencies
21 to determine whether those standards and practices meet statewide security and encryption
22 requirements. The State CIO may assume the direct responsibility of providing for the
23 information technology security of any State agency that fails to adhere to security standards
24 adopted under this Article.

25 The State CIO shall establish standards for the management and safeguarding of all State
26 data held by State agencies and private entities and shall develop and implement a process to
27 monitor and ensure adherence to the established standards. The State CIO shall establish and
28 enforce standards for the protection of State data. The State CIO shall develop and maintain an
29 inventory of where State data is stored. For data maintained by non-State entities, the State CIO
30 shall document the reasons for the use of the non-State entity and certify, in writing, that the
31 use of the non-State entity is the best course of action. The State CIO shall ensure that State
32 data held by non-State entities is properly protected and is held in facilities that meet State
33 security standards. By October 1 each year, the State CIO shall certify in writing that data held
34 in non-State facilities is being maintained in accordance with State information technology
35 security standards and shall provide a copy of this certification to the Joint Legislative
36 Oversight Committee on Information Technology and the Fiscal Research Division.

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

39 **"§ 143B-1341. State CIO approval of security standards and risk assessments.**

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

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

50 (c) If the legislative branch or the judicial branch develop their own security standards,
51 taking into consideration the mission and functions of that entity, that are comparable to or

1 exceed those set by the State CIO under this section, then those entities may elect to be
2 governed by their own respective security standards. In these instances, approval of the State
3 CIO shall not be required before the purchase of information technology security devices and
4 services. If requested, the State CIO shall consult with the legislative branch and the judicial
5 branch in reviewing the security standards adopted by those entities.

6 (d) Before a State agency may enter into any contract with another party for an
7 assessment of network vulnerability, the State agency shall notify the State CIO and obtain
8 approval of the request. If the State agency enters into a contract with another party for
9 assessment and testing, after approval of the State CIO, the State agency shall issue public
10 reports on the general results of the reviews. The contractor shall provide the State agency with
11 detailed reports of the security issues identified that shall not be disclosed as provided in
12 G.S. 132-6.1(c). The State agency shall provide the State CIO with copies of the detailed
13 reports that shall not be disclosed as provided in G.S. 132-6.1(c).

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

17 **"§ 143B-1342. Assessment of agency compliance with security standards.**

18 At a minimum, the State CIO shall annually assess the ability of each State agency, and
19 each agency's contracted vendors, to comply with the current security enterprise-wide set of
20 standards established pursuant to this section. The assessment shall include, at a minimum, the
21 rate of compliance with the enterprise-wide security standards and an assessment of security
22 organization, security practices, security information standards, network security architecture,
23 and current expenditures of State funds for information technology security. The assessment of
24 a State agency shall also estimate the cost to implement the security measures needed for
25 agencies to fully comply with the standards. Each State agency shall submit information
26 required by the State CIO for purposes of this assessment. The State CIO shall include the
27 information obtained from the assessment in the State Information Technology Plan.

28 **"§ 143B-1343. State agency cooperation; liaisons.**

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

- 32 (1) The full details of the State agency's information technology and operational
33 requirements and of all the agency's information technology security
34 incidents within 24 hours of confirmation.
- 35 (2) Comprehensive information concerning the information technology security
36 employed to protect the agency's information technology.
- 37 (3) A forecast of the parameters of the agency's projected future information
38 technology security needs and capabilities.
- 39 (4) Designating an agency liaison in the information technology area to
40 coordinate with the State Chief Information Officer. The liaison shall be
41 subject to a criminal background report from the State Repository of
42 Criminal Histories, which shall be provided by the State Bureau of
43 Investigation upon its receiving fingerprints from the liaison. If the liaison
44 has been a resident of this State for less than five years, the background
45 report shall include a review of criminal information from both the State and
46 National Repositories of Criminal Histories. The criminal background report
47 shall be provided to the State Chief Information Officer and the head of the
48 agency. In addition, all personnel in the Office of the State Auditor who are
49 responsible for information technology security reviews pursuant to
50 G.S. 147-64.6(c)(18) shall be subject to a criminal background report from
51 the State Repository of Criminal Histories, which shall be provided by the

1 State Bureau of Investigation upon receiving fingerprints from the personnel
2 designated by the State Auditor. For designated personnel who have been
3 residents of this State for less than five years, the background report shall
4 include a review of criminal information from both the State and National
5 Repositories of Criminal Histories. The criminal background reports shall be
6 provided to the State Auditor. Criminal histories provided pursuant to this
7 subdivision are not public records under Chapter 132 of the General Statutes.

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

10 "Part 8. Government Data Analytics Center.

11 **"§ 143B-1344. Definitions.**

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

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

18 a. Broad master data management capabilities such as data integration,
19 data quality and enrichment, data governance, and master data
20 management to collect, reference, and categorize information from
21 multiple sources.

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

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

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

30 **"§ 143B-1345. Government Data Analytics Center.**

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

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

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

49 (1) Continue and coordinate ongoing enterprise data integration efforts,
50 including:

- 1 a. The deployment, support, technology improvements, and expansion
2 of the Criminal Justice Law Enforcement Automated Data System
3 (CJLEADS) and related case management systems.
4 b. The pilot and subsequent phase initiative for the North Carolina
5 Financial Accountability and Compliance Technology System
6 (NFACTS).
7 c. Individual-level student data and workforce data from all levels of
8 education and the State workforce.
9 d. Other capabilities as developed by the GDAC.
10 (2) Identify technologies currently used in North Carolina that have the
11 capability to support the initiative.
12 (3) Identify other technologies, especially those with unique capabilities that are
13 complementary to existing technology standards, and that could support the
14 State's business intelligence effort.
15 (4) Compare capabilities and costs across State agencies.
16 (5) Ensure implementation is properly supported across State agencies.
17 (6) Ensure that data integration and sharing is performed in a manner that
18 preserves data privacy and security in transferring, storing, and accessing
19 data, as appropriate.
20 (7) Immediately seek any waivers and enter into any written agreements that
21 may be required by State or federal law to effectuate data sharing and to
22 carry out the purposes of this section.
23 (8) Coordinate data requirements and usage for State business intelligence
24 applications in a manner that (i) limits impacts on participating State
25 agencies as those agencies provide data and business knowledge expertise
26 and (ii) assists in defining business rules so the data can be properly used.
27 (9) Recommend the most cost-effective and reliable long-term hosting solution
28 for enterprise-level State business intelligence as well as data integration,
29 notwithstanding any other provision of State law or regulation.
30 (10) Utilize a common approach that establishes standards for business
31 intelligence initiatives for all State agencies and prevents the development of
32 projects that do not meet the established standards.
33 (11) The creation of efficiencies in State government by ensuring that State
34 agencies use the GDAC for agency business intelligence requirements.
35 (d) Application to State Government. – The initiative shall include all State agencies,
36 departments, and institutions, including The University of North Carolina, as follows:
37 (1) All State agency business intelligence requirements, including any planning
38 or development efforts associated with creating business intelligence
39 capability, as well as any master data management efforts, shall be
40 implemented through the GDAC.
41 (2) The Chief Justice of the North Carolina Supreme Court and the Legislative
42 Services Commission each shall designate an officer or agency to advise and
43 assist the State CIO with respect to implementation of the initiative in their
44 respective branches of government. The judicial and legislative branches
45 shall fully cooperate in the initiative mandated by this section in the same
46 manner as is required of State agencies.
47 (e) Project Management. – The Department, with the assistance of the Office of State
48 Budget and Management, shall identify potential funding sources for expansion of existing
49 projects or development of new projects. No GDAC project shall be initiated, extended, or
50 expanded (i) without the specific approval of the General Assembly unless the project can be
51 implemented within funds appropriated for GDAC projects or (ii) without prior consultation to

1 the Joint Legislative Commission on Governmental Operations and a report to the Joint
2 Legislative Oversight Committee on Information Technology if the project can be implemented
3 within funds appropriated for GDAC projects.

4 **"§ 143B-1346. Data sharing.**

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

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

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

- 35 (1) The North Carolina Industrial Commission shall release to the GDAC, or
36 otherwise provide electronic access to, all data requested by the GDAC
37 relating to workers' compensation insurance coverage, claims, appeals,
38 compliance, and enforcement under Chapter 97 of the General Statutes.
- 39 (2) The North Carolina Rate Bureau (Bureau) shall release to GDAC, or
40 otherwise provide electronic access to, all data requested by GDAC relating
41 to workers' compensation insurance coverage, claims, business ratings, and
42 premiums under Chapter 58 of the General Statutes. The Bureau shall be
43 immune from civil liability for releasing information pursuant to this
44 subsection, even if the information is erroneous, provided the Bureau acted
45 in good faith and without malicious or willful intent to harm in releasing the
46 information.
- 47 (3) The Department of Commerce, Division of Employment Security (DES),
48 shall release to GDAC, or otherwise provide access to, all data requested by
49 GDAC relating to unemployment insurance coverage, claims, and business
50 reporting under Chapter 96 of the General Statutes.

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

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

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

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

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

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

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

39 b. Authorized to access and view individually identifiable health
40 information, provided that the access is essential to the enterprise
41 fraud, waste, and improper payment detection program or required
42 for future initiatives having specific definable need for the
43 information.

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

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

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

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

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

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

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

27 **"§ 143B-1347. GDAC funding.**

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

36 **"§ 143B-1348. GDAC reporting.**

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

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

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

44 a. Any failure of a State agency to provide information requested
45 pursuant to this section. The failure shall be reported to the Joint
46 Legislative Oversight Committee on Information Technology and to
47 the chairs of the House of Representatives Appropriations and Senate
48 Base Budget/Appropriations Committees.

49 b. Any additional information to the Joint Legislative Commission on
50 Governmental Operations and the Joint Legislative Oversight

1 Committee on Information Technology that is requested by those
2 entities.

- 3 c. The State CIO shall report to the Joint Legislative Oversight
4 Committee on Information Technology on projects that are not
5 achieving projected savings. The report shall include a proposed
6 corrective action plan for the project.

7 "Part 9. Criminal Justice Information.

8 **"§ 143B-1349. Definitions.**

9 As used in this Part:

- 10 (1) "Board" means the Criminal Justice Information Network Governing Board.
11 (2) "Local government user" means a unit of local government of this State
12 having authorized access to the Network.
13 (3) "Network" means the Criminal Justice Information Network established by
14 the Board pursuant to this Article.
15 (4) "Network user" or "user" means any person having authorized access to the
16 Network.
17 (5) "State agency" means any State department, agency, institution, board,
18 commission, or other unit of State government.

19 **"§ 143B-1350. Criminal Justice Information Network.**

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

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

- 30 (1) Five members appointed by the Governor, including one member who is a
31 director or employee of a State correction agency for a term to begin
32 September 1, 1996, and to expire on June 30, 1997, one member who is an
33 employee of the North Carolina Department of Public Safety for a term
34 beginning September 1, 1996, and to expire on June 30, 1997, one member
35 selected from the North Carolina Association of Chiefs of Police for a term
36 to begin September 1, 1996, and to expire on June 30, 1999, one member
37 who is an employee of the Division of Juvenile Justice of the Department of
38 Public Safety, and one member who represents the Division of Motor
39 Vehicles.
40 (2) Six members appointed by the General Assembly in accordance with
41 G.S. 120-121, as follows:
42 a. Three members recommended by the President Pro Tempore of the
43 Senate, including two members of the general public for terms to
44 begin on September 1, 1996, and to expire on June 30, 1997, and one
45 member selected from the North Carolina League of Municipalities
46 who is a member of, or an employee working directly for, the
47 governing board of a North Carolina municipality for a term to begin
48 on September 1, 1996, and to expire on June 30, 1999; and
49 b. Three members recommended by the Speaker of the House of
50 Representatives, including two members of the general public for
51 terms to begin on September 1, 1996, and to expire on June 30, 1999,

1 and one member selected from the North Carolina Association of
2 County Commissioners who is a member of, or an employee working
3 directly for, the governing board of a North Carolina county for a
4 term to begin on September 1, 1996, and to expire on June 30, 1997.

5 (3) Two members appointed by the Attorney General, including one member
6 who is an employee of the Attorney General for a term to begin on
7 September 1, 1996, and to expire on June 30, 1997, and one member from
8 the North Carolina Sheriffs' Association for a term to begin on September 1,
9 1996, and to expire on June 30, 1999.

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

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

15 b. One member who is a district attorney or an assistant district attorney
16 upon the recommendation of the Conference of District Attorneys of
17 North Carolina, for a term beginning July 1, 1998, and expiring June
18 30, 1999.

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

21 d. One member who is a magistrate upon the recommendation of the
22 North Carolina Magistrates' Association, for a term beginning July 1,
23 1998, and expiring June 30, 1999.

24 e. One member who is a clerk of superior court upon the
25 recommendation of the North Carolina Association of Clerks of
26 Superior Court, for a term beginning July 1, 1998, and expiring June
27 30, 1999.

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

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

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

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

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

49 **"§ 143B-1351. Compensation and expenses of Board members.**

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

- 1 (1) Board members who are officials or employees of a State agency or unit of
2 local government, in accordance with G.S. 138-6.
- 3 (2) All other Board members, at the rate established in G.S. 138-5.
- 4 **"§ 143B-1352. Powers and duties.**
- 5 (a) The Board shall have the following powers and duties:
- 6 (1) To establish and operate the Network as an integrated system of State and
7 local government components for effectively and efficiently storing,
8 communicating, and using criminal justice information at the State and local
9 levels throughout North Carolina's law enforcement, judicial, juvenile
10 justice, and corrections agencies, with the components of the Network to
11 include electronic devices, programs, data, and governance and to set the
12 Network's policies and procedures.
- 13 (2) To develop and adopt uniform standards and cost-effective information
14 technology, after thorough evaluation of the capacity of information
15 technology to meet the present and future needs of the State and, in
16 consultation with the Department of Information Technology, to develop and
17 adopt standards for entering, storing, and transmitting information in
18 criminal justice databases and for achieving maximum compatibility among
19 user technologies.
- 20 (3) To identify the funds needed to establish and maintain the Network, identify
21 public and private sources of funding, and secure funding to:
- 22 a. Create the Network and facilitate the sharing of information among
23 users of the Network; and
- 24 b. Make grants to local government users to enable them to acquire or
25 improve elements of the Network that lie within the responsibility of
26 their agencies or State agencies; provided that the elements
27 developed with the funds must be available for use by the State or by
28 local governments without cost and the applicable State agencies join
29 in the request for funding.
- 30 (4) To provide assistance to local governments for the financial and systems
31 planning for Network-related automation and to coordinate and assist the
32 Network users of this State in soliciting bids for information technology
33 hardware, software, and services in order to assure compliance with the
34 Board's technical standards, to gain the most advantageous contracts for the
35 Network users of this State, and to assure financial accountability where
36 State funds are used.
- 37 (5) To provide a liaison among local government users and to advocate on
38 behalf of the Network and its users in connection with legislation affecting
39 the Network.
- 40 (6) To facilitate the sharing of knowledge about information technologies
41 among users of the Network.
- 42 (7) To take any other appropriate actions to foster the development of the
43 Network.
- 44 (b) All grants or other uses of funds appropriated or granted to the Board shall be
45 conditioned on compliance with the Board's technical and other standards.
- 46 **"§ 143B-1353. Election of officers; meetings; staff, etc.**
- 47 (a) The Governor shall call the first meeting of the Board. At the first meeting, the
48 Board shall elect a chair and a vice-chair, each to serve a one-year term, with subsequent
49 officers to be elected for one-year terms. The Board shall hold at least two regular meetings
50 each year, as provided by policies and procedures adopted by the Board. The Board may hold

1 additional meetings upon the call of the chair or any three Board members. A majority of the
2 Board membership constitutes a quorum.

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

6 "Part 10. Emergency Telephone Service.

7 "§ 143B-1354 through § 143B-1364.

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

9 "§ 143B-1365 through § 143B-1368."

10 11 INSTRUCTIONS TO THE REVISOR OF STATUTES

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

- 14 (1) Article 3 of Chapter 62A of the General Statutes (Emergency Telephone
15 Service) is recodified as Part 10 of Article 14 of Chapter 143B of the
16 General Statutes with the sections to be numbered as G.S. 143B-1354
17 through G.S. 143B-1364, respectively.
- 18 (2) Article 76 of Chapter 143 of the General Statutes (North Carolina
19 Geographic Information Coordinating Council) is recodified as Part 11 of
20 Article 14 of Chapter 143B of the General Statutes with the sections to be
21 recodified as G.S. 143B-1365 through 143B-1368, respectively.

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

26 27 CONFORMING AND TECHNICAL CHANGES RELATING TO DEPARTMENT OF 28 INFORMATION TECHNOLOGY

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

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

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

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

37 ...

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

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

46 "§ 138A-3. Definitions.

47 The following definitions apply in this Chapter:

48 ...

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

50 ...

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

...."

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

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

...

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

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

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

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

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

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

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

...

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

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

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

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

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

7 "

8 9 **ADMINISTRATIVE MATTERS/DIT**

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

24 25 **PART VIII. PUBLIC SCHOOLS**

26 27 **FUNDS FOR CHILDREN WITH DISABILITIES**

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

37 38 **FUNDS FOR ACADEMICALLY GIFTED CHILDREN**

39 **SECTION 8.2.** The State Board of Education shall allocate additional funds for
40 academically or intellectually gifted children on the basis of one thousand two hundred eighty
41 dollars and seventy cents (\$1,280.70) per child for fiscal years 2015-2016 and 2016-2017. A
42 local school administrative unit shall receive funds for a maximum of four percent (4%) of its
43 2015-2016 allocated average daily membership, regardless of the number of children identified
44 as academically or intellectually gifted in the unit. The dollar amounts allocated under this
45 section for academically or intellectually gifted children shall also be adjusted in accordance
46 with legislative salary increments, retirement rate adjustments, and health benefit adjustments
47 for personnel who serve academically or intellectually gifted children.

48 49 **USE OF SUPPLEMENTAL FUNDING IN LOW-WEALTH COUNTIES**

50 **SECTION 8.3.(a)** Use of Funds for Supplemental Funding. – All funds received
51 pursuant to this section shall be used only (i) to provide instructional positions, instructional

1 support positions, teacher assistant positions, clerical positions, school computer technicians,
2 instructional supplies and equipment, staff development, and textbooks and digital resources
3 and (ii) for salary supplements for instructional personnel and instructional support personnel.
4 Local boards of education are encouraged to use at least twenty-five percent (25%) of the funds
5 received pursuant to this section to improve the academic performance of children who are
6 performing at Level I or II on either reading or mathematics end-of-grade tests in grades three
7 through eight.

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

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

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

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

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

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

21 **SECTION 8.3.(f)** Minimum Effort Required. – A county that (i) maintains an
22 effective county tax rate that is at least one hundred percent (100%) of the effective State
23 average tax rate in the most recent year for which data are available or (ii) maintains a county
24 appropriation per student to the school local current expense fund of at least one hundred
25 percent (100%) of the current expense appropriations per student to the school local current
26 expense fund that the county could provide given the county's wealth and an average effort to
27 fund public schools shall receive full funding under this section. A county that maintains a
28 county appropriation per student to the school local current expense fund of less than one
29 hundred percent (100%) of the current expense appropriations per student to the school local
30 current expense fund that the county could provide given the county's wealth and an average
31 effort to fund public schools shall receive funding under this section at the same percentage that
32 the county's appropriation per student to the school local current expense fund is of the current
33 expense appropriations per student to the school local current expense fund that the county
34 could provide given the county's wealth and an average effort to fund public schools.

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

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

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

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

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

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

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

22 23 **SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING**

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

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

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

43 Allotments for eligible local school administrative units under this subsection shall
 44 not be reduced by more than twenty percent (20%) of the amount received in fiscal year
 45 2014-2015 in any fiscal year.

46 **SECTION 8.4.(c)** Phase-Out Provision for the 2016-2017 Fiscal Year. – If a local
 47 school administrative unit becomes ineligible for funding under the schedule in subsection (a)
 48 of this section in the 2016-2017 fiscal year, funding for that unit shall be phased out over a
 49 five-year period. Funding for such local administrative units shall be reduced in equal
 50 increments in each of the five years after the local administrative unit becomes ineligible.

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

3 Allotments for eligible local school administrative units under this subsection shall
4 not be reduced by more than twenty percent (20%) of the amount received in fiscal year
5 2015-2016 in any fiscal year.

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

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

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

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

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

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

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

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

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

43
44 The State Board of Education may require local school administrative units
45 receiving funding under the Disadvantaged Student Supplemental Fund to purchase the
46 Education Value-Added Assessment System (EVAAS) in order to provide in-depth analysis of
47 student performance and help identify strategies for improving student achievement. This data
48 shall be used exclusively for instructional and curriculum decisions made in the best interest of
49 children and for professional development for their teachers and administrators.

50 **SECTION 8.5.(b)** Disadvantaged student supplemental funding (DSSF) shall be
51 allotted to a local school administrative unit based on (i) the unit's eligible DSSF population

1 and (ii) the difference between a teacher-to-student ratio of 1:21 and the following
2 teacher-to-student ratios:

- 3 (1) For counties with wealth greater than ninety percent (90%) of the statewide
4 average, a ratio of 1:19.9.
- 5 (2) For counties with wealth not less than eighty percent (80%) and not greater
6 than ninety percent (90%) of the statewide average, a ratio of 1:19.4.
- 7 (3) For counties with wealth less than eighty percent (80%) of the statewide
8 average, a ratio of 1:19.1.
- 9 (4) For local school administrative units receiving DSSF funds in fiscal year
10 2005-2006, a ratio of 1:16. These local school administrative units shall
11 receive no less than the DSSF amount allotted in fiscal year 2006-2007.

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

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

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

19 **SECTION 8.7.** Funds appropriated for the Uniform Education Reporting System
20 (UERS) for the 2015-2017 fiscal biennium shall not revert at the end of each fiscal year but
21 shall remain available until expended.
22

23 **COOPERATIVE INNOVATIVE HIGH SCHOOLS**

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

25 "(j) Any State funds appropriated for cooperative innovative high schools shall not be
26 adjusted to reflect legislative salary increments, retirement rate adjustments, and health benefit
27 adjustments for school personnel, unless specifically provided for by the General Assembly."
28

29 **STUDY NCVPS ALTERNATIVE FUNDING FORMULA**

30 **SECTION 8.11.(a)** The State Board of Education shall study implementation of an
31 alternative funding formula for the North Carolina Virtual Public School (NCVPS) in lieu of
32 the funding formula adopted by the State Board pursuant to Section 7.22(d) of S.L. 2011-145,
33 as amended by Section 8.9 of S.L. 2013-360. The study shall include consideration of the
34 potential costs and benefits of (i) offering an alternative funding formula option for local boards
35 of education to select and (ii) replacing the current NCVPS formula with a new formula
36 applicable to all local boards of education participating in NCVPS.
37

38 **SECTION 8.11.(b)** The State Board of Education shall report the results of the
39 study under subsection (a) of this section and any legislative recommendations to the Joint
40 Legislative Education Oversight Committee by January 15, 2016.
41

42 **REVISE THE DESIGNATION OF THE TEXTBOOK FUNDING ALLOTMENT**

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

46 **SECTION 8.18.(b)** The State Board of Education shall establish the purposes for
47 which the funds within the new Textbooks and Digital Resources funding allotment may be
48 used for as follows: (i) to acquire textbooks as defined in G.S. 115C-85, which includes
49 technology-based programs, and (ii) only for allowable expenditures as were permitted under
50 the Textbooks funding allotment as of June 30, 2015.
51

REPEAL UNNECESSARY STATE BOARD OF EDUCATION REPORTS

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

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

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

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

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

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

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

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

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

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

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

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

11 "**§ 115C-375.3. Guidelines to support and assist students with diabetes.**

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

25 26 **INVESTING IN INNOVATION GRANT**

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

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

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

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

47 48 **STUDY ON CHARTER SCHOOL CLOSURE FUNDS**

49 **SECTION 8.28.(a)** The State Board of Education shall study and develop a
50 proposed policy regarding circumstances in which a charter school, approved by the State
51 Board pursuant to G.S. 115C-218.5, shall not be subject to the minimum value requirement of

1 fifty thousand dollars (\$50,000) as required by G.S. 115C-218.100 for the purposes of ensuring
2 payment of expenses related to closure proceedings. The State Board shall consider providing
3 certain charter schools with a total or partial waiver of the requirement. In doing so, the State
4 Board shall examine criteria for potentially eligible charter schools, such as the years of
5 operation of the charter school, proven compliance with finance, governance, academic
6 requirements of its charter, State law, and State Board policy requirements, as well as
7 appropriate documentation to show the charter school's financial health and sustainability.

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

12 **TEXTBOOKS AND DIGITAL RESOURCES ALLOTMENT/USE OF FUNDS**

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

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

- 17 (1) A description of each program report code, written in plain English, and a
18 summary of the prior fiscal year's expenditure of State funds within each
19 program report code.
- 20 (2) A description of each object code within a program report code, written in
21 plain English, and a summary of the prior fiscal year's expenditure of State
22 funds for each object code.
- 23 (3) A description of each allotment transfer that increased or decreased the
24 initial allotment amount by more than five percent (5%) and the educational
25 priorities that necessitated the transfer.
- 26 (4) A description of any transfer of funds from the textbooks and digital
27 resources allotment into another allotment category with an explanation of
28 why the transfer from the textbooks and digital resources allotment was
29 made to a different allotment category.
- 30 (5) A chart that clearly reflects how the local school administrative unit spent
31 State funds."

32 **STUDY ON JUVENILE LITERACY PROGRAM**

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

- 36 (1) Examine the impact of the program on (i) improving basic literacy skills, (ii)
37 reintegrating juveniles into schools, (iii) preventing criminal behavior and
38 recidivism, (iv) developing overall academic skills, and (v) addressing
39 problem behaviors in school.
- 40 (2) Evaluate the existing program for potential expansion into other counties,
41 including projected costs, feasibility of implementation, and
42 recommendations for locations for additional programs.

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

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

47 **SECTION 8.37.(a)** Notwithstanding G.S. 143C-6-4, the State Board of Education
48 may, after consultation with the Office of State Budget and Management and the Fiscal
49

1 Research Division, reorganize the Department of Public Instruction, if necessary, to implement
2 the budget reductions for the 2015-2017 fiscal biennium. Consultation shall occur prior to
3 requesting budgetary and personnel changes through the budget revision process. The State
4 Board shall provide a current organization chart for the Department of Public Instruction in the
5 consultation process and shall report to the Joint Legislative Commission on Governmental
6 Operations on any reorganization.

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

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

17 18 **LOCAL BOARDS OF EDUCATION/PERFORMANCE-BASED RIFS**

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

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

- 23 (1) In determining which positions shall be subject to a reduction, a local school
24 administrative unit shall consider the following:
 - 25 a. Structural considerations, such as identifying positions, departments,
26 courses, programs, operations, and other areas where there are (i) less
27 essential, duplicative, or excess personnel; (ii) job responsibility and
28 position inefficiencies; (iii) opportunities for combined work
29 functions; and (iv) decreased student or other demands for
30 curriculum, programs, operations, or other services.
 - 31 b. Organizational considerations, such as anticipated organizational
32 needs of the school system and program or school enrollment.
- 33 (2) In identifying which teachers in similar positions shall be subject to a
34 dismissal, demotion, or reduction to employment on a part-time basis under
35 the policy, a local school administrative unit shall consider work
36 performance and teacher evaluations."

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

38 "(2) Reduction in Force. –

- 39 a. A local board of education shall adopt a policy for implementing a
40 reduction in force pursuant to sub-subdivision (e)(1)l. of this section
41 that includes the following criteria:
 - 42 1. In determining which positions shall be subject to a reduction,
43 a local school administrative unit shall consider the
44 following:
 - 45 I. Structural considerations, such as identifying
46 positions, departments, courses, programs, operations,
47 and other areas where there are (i) less essential,
48 duplicative, or excess personnel; (ii) job responsibility
49 and position inefficiencies; (iii) opportunities for
50 combined work functions; and (iv) decreased student

1 or other demands for curriculum, programs,
2 operations, or other services.

3 II. Organizational considerations, such as anticipated
4 organizational needs of the school system and
5 program or school enrollment.

6 2. In identifying which teachers in similar positions shall be
7 subject to a dismissal, demotion, or reduction to employment
8 on a part-time basis under the policy, a local school
9 administrative unit shall consider work performance and
10 teacher evaluations.

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

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

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

40 **DRIVER EDUCATION TRAINING**

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

42 **"§ 115C-216. Boards of education required to provide courses in operation of motor**
43 **vehicles.**

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

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

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

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

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

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

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

12 **SECTION 8.39.(d)** G.S. 20-11(b) reads as rewritten:

13 "(b) Level 1. — A person who is at least 15 years old but less than 18 years old may
14 obtain a limited learner's permit if the person meets all of the following requirements:

15 (1) Passes a course of driver education prescribed in ~~G.S. 115C-215~~G.S.
16 115D-76.5 or a course of driver instruction at a nonpublic secondary school
17 or licensed commercial driver training school.

18 (2) Passes a written test administered by the Division.

19 (3) Has a driving eligibility certificate or a high school diploma or its
20 equivalent."

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

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

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

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

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

37 "(4) At any other time when windshield wipers are in use as a result of smoke,
38 fog, rain, sleet, or snow, or when inclement weather or environmental factors
39 severely reduce the ability to clearly discern persons and vehicles on the
40 street and highway at a distance of 500 feet ahead, provided, however, the
41 provisions of this subdivision shall not apply to instances when windshield
42 wipers are used intermittently in misting rain, sleet, or snow. Any person
43 violating this subdivision during the period from October 1, 1990, through
44 December 31, 1991, shall be given a warning of the violation only.
45 Thereafter, any person violating this subdivision shall have committed an
46 infraction and shall pay a fine of five dollars (\$5.00) and shall not be
47 assessed court costs. No drivers license points, insurance points or premium
48 surcharge shall be assessed on account of violation of this subdivision and
49 no negligence or liability shall be assessed on or imputed to any party on
50 account of a violation of this subdivision. The Commissioner of Motor
51 Vehicles and the ~~Superintendent of Public Instruction~~ State Board of

1 Community Colleges shall incorporate into driver education programs and
2 driver licensing programs instruction designed to encourage compliance with
3 this subdivision as an important means of reducing accidents by making
4 vehicles more discernible during periods of limited visibility."

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

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

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

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

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

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

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

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

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

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

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

- 1 d. To provide for an appeal to an appropriate education authority by a
 2 person who is denied a driving eligibility certificate. These rules
 3 shall apply to public schools and charter schools.
 4 e. To define exemplary student behavior and to define what constitutes
 5 the successful completion of a drug or alcohol treatment counseling
 6 program. These rules shall apply to public schools and charter
 7 schools.

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

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

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

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

27 OFFICE OF EDUCATOR LICENSURE/TRANSFER FROM LICENSURE SECTION

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

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

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

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

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

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

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

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

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

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

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

40 **MODIFY EDUCATOR PREPARATION PROGRAM APPROVAL PROCESS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (2) Positive management of student behavior.

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

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

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

31 (1) Provide adequate coursework in the teaching of reading and mathematics for
32 lateral entry teachers seeking certification in elementary education.

33 (2) Assess lateral entry teachers prior to licensure to determine that they possess
34 the requisite knowledge in scientifically based reading and mathematics
35 instruction that is aligned with the State Board's expectations.

36 (3) Prepare all lateral entry teachers to apply formative and summative
37 assessments within the school and classroom setting through
38 technology-based assessment systems available in North Carolina schools
39 that measure and predict expected student improvement.

40 (4) Require that lateral entry teachers demonstrate competencies in using digital
41 and other instructional technologies to provide high-quality, integrated
42 digital teaching and learning to all students.

43 (c) The State Board of Community Colleges and the State Board of Education shall
44 jointly identify the community college courses and the educator preparation program courses
45 that are necessary and appropriate for inclusion in the community college program of study for
46 lateral entry teachers. To the extent possible, any courses that must be completed through an
47 approved educator preparation program shall be taught on a community college campus or shall
48 be available through distance learning. The State Board of Education shall identify the
49 appropriate courses for a private, nonprofit two-year college to include in the program of study
50 for lateral entry teachers.

1 (d) In order to participate in the community college or private, nonprofit two-year
2 college program of study for lateral entry teachers, an individual must hold at least a bachelor's
3 degree from a regionally accredited institution of higher education.

4 (e) An individual who successfully completes the lateral entry program of study and
5 meets all other requirements of licensure set by the State Board of Education shall be
6 recommended for a North Carolina teaching license.

7 (f) It is further the policy of the State of North Carolina to ensure that local boards of
8 education can provide the strongest possible leadership for schools based upon the identified
9 and changing needs of individual schools. The State Board of Education shall carefully
10 consider a lateral entry program for school administrators to ensure that local boards of
11 education will have sufficient flexibility to attract able candidates.

12 **"§ 115C-296.13. Educator preparation program reporting.**

13 (a) Annual Performance Reports. – The State Board of Education shall require all
14 approved educator preparation programs, including master's degree programs in teacher
15 preparation and master's degree programs in school administration, to submit annual
16 performance reports. The performance reports shall provide the State Board of Education with
17 a focused review of the programs and the current process of accrediting these programs in order
18 to ensure that the programs produce graduates that are well prepared to teach.

19 (b) Required Elements. – The performance report for each educator preparation
20 program in North Carolina shall follow a common format and include at least the following
21 elements:

22 (1) Quality of students entering the educator preparation program, including the
23 average grade point average and average score on preprofessional skills tests
24 that assess reading, writing, mathematics, and other competencies.

25 (2) Graduation rates.

26 (3) Time-to-graduation rates.

27 (4) Average scores of graduates on professional and content area examination
28 for the purpose of licensure.

29 (5) Percentage of graduates receiving initial licenses.

30 (6) Percentage of graduates hired as teachers.

31 (7) Percentage of graduates remaining in teaching for four years.

32 (8) Graduate satisfaction based on a common survey.

33 (9) Employer satisfaction based on a common survey.

34 (10) Effectiveness of teacher preparation program graduates.

35 (c) Submission of Annual Performance Reports. – Performance reports shall be
36 provided annually to the Board of Governors of The University of North Carolina, the State
37 Board of Education, and the boards of trustees of nonpublic postsecondary colleges. The State
38 Board of Education shall review the educator preparation program performance reports each
39 year the performance reports are submitted.

40 (d) Educator Preparation Program Report Card. – The State Board shall create a higher
41 education educator preparation program report card reflecting the information collected in the
42 annual performance reports for each North Carolina institution offering educator preparation
43 programs. The report cards shall, at a minimum, summarize information reported on all of the
44 performance indicators for the performance reports required by subsection (b) of this section.

45 (e) Annual State Board of Education Report. – The educator preparation program report
46 cards shall be submitted to the Joint Legislative Education Oversight Committee on an annual
47 basis by November 15.

48 (f) State Board of Education Action Based on Performance. – Based upon the
49 performance reports and other criteria established by the State Board, the State Board may
50 reward an educator preparation program, impose probationary status and plans of improvement
51 on an educator preparation program, or revoke approval of an educator preparation program."

1 **SECTION 8.41.(b)** G.S. 115C-296(b) reads as rewritten:

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

12 "

13 **SECTION 8.41.(c)** G.S. 115C-296(b)(2) is repealed.

14 **SECTION 8.41.(d)** G.S. 115C-296(b1) is repealed.

15 **SECTION 8.41.(e)** G.S. 115C-296(b2) is repealed.

16 **SECTION 8.41.(f)** G.S. 115C-296(c) is repealed.

17 **SECTION 8.41.(g)** G.S. 115C-296(c1) is repealed.

18 **SECTION 8.41.(h)** G.S. 115C-296(c2) is repealed.

19 **SECTION 8.41.(i)** G.S. 115C-296.7(g) reads as rewritten:

20 "(g) NC Teaching Corps members shall be granted lateral entry teaching licenses
21 pursuant to ~~G.S. 115C-296(e)~~G.S. 115C-296.12(a)."

22 **SECTION 8.41.(j)** G.S. 115D-5(p) reads as rewritten:

23 "(p) The North Carolina Community College System may offer courses, in accordance
24 with the lateral entry program of study established under ~~G.S. 115C-296(e1)~~,
25 G.S. 115C-296.12, to individuals who choose to enter the teaching profession by lateral entry."

26 **SECTION 8.41.(k)** Educator preparation programs approved by the State Board of
27 Education as of July 1, 2015, shall meet the requirements of subsection (a) of this section no
28 later than July 1, 2017. Educator preparation programs seeking approval by the State Board of
29 Education on or after July 1, 2015, shall meet the requirements of subsection (a) of this section
30 at the time approval is sought from the State Board of Education. The State Board of Education
31 shall not require students enrolled in educator preparation programs that require a nationally
32 normed and valid pedagogy assessment to determine clinical practice performance to provide
33 scores for a pedagogy assessment based on multiple choice or constructed responses.

34 **ACCESS FOR TEACHERS TO EVAAS DATA**

35 **SECTION 8.42.(a)** Article 22 of Chapter 115C of the General Statutes is amended
36 by adding a new section to read:

37 "§ 115C-333.2. Teacher evaluation reports.

38 Each local school administrative unit shall ensure that individual teachers are provided
39 access to school-level value-added data, the teacher's own value-added data, when applicable,
40 and the teacher's evaluation dashboard through the Education Value-Added Assessment System
41 (EVAAS). The principal of each school shall notify teachers at least annually when EVAAS
42 data has been updated to reflect teacher performance from the previous school year."

43 **SECTION 8.42.(b)** This section applies beginning with the 2015-2016 school year.

44 **CERTAIN CIHS OPERATING WITHOUT ADDITIONAL FUNDS**

45 **SECTION 8.43.** Notwithstanding G.S. 115C-238.51A(c) and G.S. 115C-238.54,
46 the Academy at High Point Central, the Academy at Ben L. Smith High School, STEM Early
47 College at NC A&T State University, Middle College at the University of North Carolina at
48 Greensboro, Vernon Malone College and Career Academy, and the Northeast Regional School
49 of Biotechnology and Agriscience shall be permitted to operate in accordance with
50
51

1 G.S. 115C-238.53 and G.S. 115C-238.54 as cooperative innovative high schools approved
2 under G.S. 115C-238.51A(c) and shall be subject to the evaluation requirements of
3 G.S. 115C-238.55.
4

5 **PART VIII-A. LEGISLATIVE FINDINGS, DIRECTION, AUTHORITY, AND**
6 **RESOURCES TO ENSURE THAT ALL STUDENTS HAVE THE**
7 **OPPORTUNITY TO RECEIVE A SOUND BASIC EDUCATION**
8

9 **LEGISLATIVE FINDINGS**

10 **SECTION 8A.1.(a)** The General Assembly finds that some local boards of
11 education are not in compliance with the requirements of the judiciary's decisions in *Leandro* to
12 provide all public school students the opportunity to receive a sound basic education.
13 Notwithstanding a history of adequate State and local funding and legislatively-granted
14 flexibility in administration, management, and employment at the local level to provide tools to
15 facilitate compliance with *Leandro*, some local boards of education have failed to take actions
16 sufficient to:

- 17 (1) Prevent education bureaucracies from interfering with and overriding
18 accountability measures and education reforms required by State law.
- 19 (2) Properly administer the public schools.
- 20 (3) Provide high-quality principals in every school and high-quality teachers in
21 every classroom.

22 **SECTION 8A.1.(b)** It is the intent of the General Assembly in this act to provide
23 the following additional direction, authority, and resources to local boards of education and to
24 the State Board of Education to enable them to correct these deficiencies:

- 25 (1) Clarify the role of local boards of education to ensure that their main focus is
26 to provide each public school student with the opportunity to receive a sound
27 basic education, and that all policy decisions should be made with that
28 objective in mind, including employment decisions, budget development,
29 and other administrative actions.
- 30 (2) Direct the State Board of Education not to allow waivers of State laws and
31 rules that permit local boards to avoid accountability measures and education
32 reforms required by the State.
- 33 (3) Provide additional teacher positions to transition to lower class size in
34 kindergarten through third grade and require local boards of education to use
35 those positions to maintain class sizes that, according to research, are
36 optimal for learning at this critical time.
- 37 (4) Facilitate the identification of low-performing schools and low-performing
38 local school administrative units.
- 39 (5) Provide the State Board of Education with authority to consolidate local
40 school administrative units in contiguous counties as necessary to ensure that
41 all school systems have the size, expertise, and other resources necessary to
42 provide their students with the opportunity to receive a sound basic
43 education.
- 44 (6) Provide one hundred fifty-seven million ninety-six thousand four hundred
45 thirty-seven dollars (\$157,096,437) in additional funds to increase the base
46 teacher salary paid by the State and provide additional funds for the salaries
47 of principals and assistant principals.
48

49 **DUTY OF LOCAL BOARDS OF EDUCATION TO PROVIDE STUDENTS WITH THE**
50 **OPPORTUNITY TO RECEIVE A SOUND BASIC EDUCATION**

51 **SECTION 8A.2.** G.S. 115C-47(1) reads as rewritten:

1 "(1) ~~To Provide an Adequate School System~~ the Opportunity to Receive a Sound
2 Basic Education. It shall be the duty of local boards of education to provide
3 ~~adequate school systems~~ students with the opportunity to receive a sound
4 basic education and to make all policy decisions with that objective in mind,
5 including employment decisions, budget development, and other
6 administrative actions, within their respective local school administrative
7 units, as directed by law."
8

9 CLASS SIZE IN KINDERGARTEN THROUGH THIRD GRADE

10 SECTION 8A.3.(a) G.S. 115C-301 reads as rewritten:

11 "§ 115C-301. Allocation of teachers; class size.

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

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

18 (c) Maximum Class Size for Kindergarten Through Third Grade. – The average class
19 size for kindergarten through third grade in a local school administrative unit shall at no time
20 exceed the funded allotment ratio of teachers to students in kindergarten through third grade. At
21 the end of the second school month and for the remainder of the school year, the size of an
22 individual class in kindergarten through third grade shall not exceed the allotment ratio by more
23 than three students. In grades four through 12, local school administrative units shall have the
24 maximum flexibility to use allotted teacher positions to maximize student achievement.

25 (d), (e) Repealed by Session Laws 2013-363, s. 3.3(a), effective July 1, 2013.

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

34 (g) Waivers and Allotment Adjustments. – Local boards of education shall report
35 exceptions to the class size requirements set out for kindergarten through third grade and
36 significant increases in class size at other grade levels to the State Board and shall request
37 allotment adjustments at any grade level, waivers from the requirements for kindergarten
38 through third grade, or both. Within 45 days of receipt of reports, the State Board of Education,
39 within funds available, may allot additional positions at any grade level. The State Board shall
40 not grant waivers for ~~the excess class size in kindergarten through third grade.~~ grade, except
41 under the following circumstances: (i) emergencies or acts of God that impact the availability
42 of classroom space or facilities; (ii) an unanticipated increase in student population of an
43 individual school in excess of two percent (2%) of the average daily membership of that
44 school; (iii) organizational problems in geographically isolated local school administrative units
45 in which the average daily membership is less than one and one-half per square mile; (iv)
46 classes organized for a solitary curricular area; or (v) a charter school closure.

47 (h) State Board Rules. – The State Board of Education shall adopt rules necessary for
48 the implementation of this section.

49 (i) Repealed by Session Laws 2013-363, s. 3.3(a), effective July 1, 2013.

50 (j) Penalty for Noncompliance. – If the State Board of Education determines that a
51 local superintendent has willfully failed to comply with the requirements of this section, no

1 State funds shall be allocated to pay the superintendent's salary for the period of time the
 2 superintendent is in noncompliance. The local board of education shall continue to be
 3 responsible for complying with the terms of the superintendent's employment contract."

4 **SECTION 8A.3.(b)** Notwithstanding G.S. 115C-301, as amended by this section,
 5 for the 2015-2016 school year only, the funded class size allotment ratio, the maximum average
 6 class size for all classes within a local school administrative unit, and the maximum individual
 7 class size for kindergarten through third grade are as follows:

| 8 Grade Level | Funded | Maximum Average | Maximum Individual |
|----------------------|-------------------|------------------------|---------------------------|
| 9 | Class Size | Class Size | Class Size |
| 10 Kindergarten | 18 | 21 | 24 |
| 11 1-3 | 16 | 19 | 22. |

12 **SECTION 8A.3.(c)** For the 2016-2017 school year, the funded class size allotment
 13 ratio, the maximum average class size for all classes within a local school administrative unit,
 14 and the maximum individual class size for kindergarten through third grade are as follows:

| 15 Grade Level | Funded | Maximum Average | Maximum Individual |
|-----------------------|-------------------|------------------------|---------------------------|
| 16 | Class Size | Class Size | Class Size |
| 17 Kindergarten | 17 | 17 | 20 |
| 18 1-3 | 15 | 15 | 18. |

19 **IDENTIFICATION OF LOW-PERFORMING SCHOOLS AND UNITS**

20 **SECTION 8A.4.(a)** G.S. 115C-105.35(c) is repealed.

21 **SECTION 8A.4.(b)** G.S. 115C-105.36 is repealed.

22 **SECTION 8A.4.(c)** G.S. 115C-105.37 reads as rewritten:

23 **"§ 115C-105.37. Identification of low-performing schools.**

24 (a) Identification of Low-Performing Schools. – The State Board of Education shall
 25 ~~design and implement a procedure to identify low-performing schools on an annual basis.~~
 26 Low-performing schools are those that receive a school performance grade of D or F and a
 27 school growth score of "met expected growth" or "not met expected growth" as defined by
 28 G.S. 115C-83.15. ~~Low-performing schools are those in which there is a failure to meet the~~
 29 ~~minimum growth standards, as defined by the State Board, and a majority of students are~~
 30 ~~performing below grade level.~~

31 (a1) Plan for Improvement of Low-Performing Schools. – ~~By July 10 of each year, each~~
 32 ~~local school administrative unit shall do a preliminary analysis of test results to determine~~
 33 ~~which of its schools the State Board may identify as low-performing under this section. If a~~
 34 ~~school has been identified as low-performing as provided in this section and the school is not~~
 35 ~~located in a local school administrative unit identified as low-performing under~~
 36 G.S. 115C-105.39A, the following actions shall be taken:

37 (1) The superintendent ~~then~~ shall proceed under G.S. 115C-105.39.

38 (2) ~~In addition, within~~ Within 30 days of the initial identification of a school as
 39 ~~low-performing by the State Board, the local school administrative unit or~~
 40 ~~the State Board, whichever occurs first,~~ the superintendent shall submit to
 41 the local board of education a preliminary plan for ~~addressing the needs of~~
 42 ~~that school, improving both the school performance grade and school growth~~
 43 ~~score,~~ including how the superintendent and other central office
 44 administrators will work with the school and monitor the school's progress.

45 (3) Within 30 days of its receipt of ~~this the~~ preliminary plan, the local board
 46 shall vote to approve, modify, or reject this plan. Before the local board
 47 ~~makes this vote,~~ votes on the preliminary plan, it shall make the plan
 48 available to the public, including the personnel assigned to that school and
 49
 50
 51

1 the parents and guardians of the students who are assigned to the school, and
2 shall allow for written comments.

3 (4) ~~The local board shall submit the a final plan to the State Board within five~~
4 ~~days of the local board's vote approval of the plan.~~ The State Board shall
5 review the plan expeditiously and, if appropriate, may offer
6 recommendations to modify the plan. The local board shall consider any
7 recommendations made by the State ~~Board~~ Board and, if necessary, amend
8 the plan and vote on approval of any changes to the final plan.

9 (5) The local board of education shall provide access to the final plan on the
10 local school administrative unit's Web site. The State Board of Education
11 shall also provide access to each low-performing school plan on the
12 Department of Public Instruction's Web site.

13 (b) Parental Notice of Low-Performing School Status. – Each school that the State
14 Board identifies as low-performing shall provide written notification to the parents and
15 guardians of students attending that ~~school~~ school within 30 days of the identification that
16 includes the following information:

17 (1) ~~The written notification shall include a~~ A statement that the State Board of
18 Education has found that the school has "failed to meet the minimum growth
19 standards, as defined by the State Board, and a majority of students in the
20 school are performing below grade level." "received a school performance
21 grade of D or F and a school growth score of "met expected growth" or "not
22 met expected growth" and has been identified as a low-performing school as
23 defined by G.S. 115C-105.37." The statement shall include an explanation of
24 the school performance grades and growth scores.

25 (2) ~~This notification also shall include~~ The school performance grade and growth
26 score received.

27 (3) ~~information~~ Information about the preliminary plan developed under
28 subsection (a1) of this section ~~section~~ and the availability of the final plan on
29 the local school administrative unit's Web site.

30 (4) The meeting date for when the preliminary plan will be considered by the
31 local board of education.

32 (5) ~~and a~~ A description of any additional steps the school is taking to improve
33 student performance."

34 **SECTION 8A.4.(d)** Article 8B of Chapter 115C of the General Statutes is
35 amended by adding a new section to read:

36 **"§ 115C-105.39A. Identification of low-performing local school administrative units.**

37 (a) Identification of Low-Performing Local School Administrative Units. – The State
38 Board of Education shall identify low-performing local school administrative units on an
39 annual basis. A low-performing local school administrative unit is a unit in which the majority
40 of the schools in that unit that received a school performance grade and growth score as
41 provided in G.S. 115C-83.15 have been identified as a low-performing school, as provided in
42 G.S. 115C-105.37.

43 (b) Plan for Improvement of Low-Performing Local School Administrative Units. –
44 Once a local school administrative unit has been identified as low-performing under this
45 section, the following actions shall be taken:

46 (1) The superintendent shall proceed under G.S. 115C-105.39.

47 (2) Within 30 days of the identification of a local school administrative unit as
48 low-performing by the State Board, the superintendent shall submit to the
49 local board of education a preliminary plan for improving both the school
50 performance grade and school growth score of each low-performing school
51 in the unit, including how the superintendent and other central office

1 administrators will work with each low-performing school and monitor the
2 low-performing school's progress, and how current local school
3 administrative unit policy should be changed to improve student
4 achievement throughout the local school administrative unit.

5 (3) Within 30 days of its receipt of the preliminary plan, the local board shall
6 vote to approve, modify, or reject this plan. Before the local board votes on
7 the plan, it shall make the plan available to the public, including the
8 personnel assigned to each low-performing school and the parents and
9 guardians of the students who are assigned to each low-performing school,
10 and shall allow for written comments.

11 (4) The local board shall submit a final plan to the State Board within five days
12 of the local board's approval of the plan. The State Board shall review the
13 plan expeditiously and, if appropriate, may offer recommendations to
14 modify the plan. The local board shall consider any recommendations made
15 by the State Board and, if necessary, amend the plan and vote on approval of
16 any changes to the final plan.

17 (5) The local board of education shall provide access to the final plan on the
18 local school administrative unit's Web site. The State Board of Education
19 shall also provide access to each low-performing local school administrative
20 unit plan on the Department of Public Instruction's Web site.

21 (c) Parental Notice of Low-Performing Local School Administrative Unit Status. –
22 Each local school administrative unit that the State Board identifies as low-performing shall
23 provide written notification to the parents and guardians of all students attending any school in
24 the local school administrative unit within 30 days of the identification that includes the
25 following information:

26 (1) A statement that the State Board of Education has found that a majority of
27 the schools in the local school administrative unit have "received a school
28 performance grade of D or F and a school growth score of "met expected
29 growth" or "not met expected growth" and have been identified as
30 low-performing schools as defined by G.S. 115C-105.37." The statement
31 shall also include an explanation of the school performance grades and
32 growth scores.

33 (2) The percentage of schools identified as low-performing.

34 (3) Information about the preliminary plan developed under subsection (b) of
35 this section and the availability of the final plan on the local school
36 administrative unit's Web site.

37 (4) The meeting date for when the preliminary plan will be considered by the
38 local board of education.

39 (5) A description of any additional steps the local school administrative unit and
40 schools are taking to improve student performance.

41 (6) For notifications sent to parents and guardians of students attending a school
42 that is identified as low-performing under G.S. 115C-105.37, a statement
43 that the State Board of Education has found that the school has "received a
44 school performance grade of D or F and a school growth score of "met
45 expected growth" or "not met expected growth" and has been identified as a
46 low-performing school as defined by G.S. 115C-105.37." This notification
47 also shall include the school performance grade and school growth score the
48 school received and an explanation of the school performance grades and
49 growth scores."
50

1 STATE BOARD AUTHORITY TO CONSOLIDATE CONTIGUOUS COUNTY
2 SCHOOL ADMINISTRATIVE UNITS

3 SECTION 8A.5. Article 7 of Chapter 115C of the General Statutes is amended by
4 adding a new section to read:

5 "§ 115C-66.5. Merger of county school administrative units by the State Board of
6 Education.

7 The State Board of Education shall have the authority to consolidate and merge contiguous
8 county school administrative units or a group of county school administrative units in which
9 each county unit is contiguous with at least one other county unit in the group. The State Board
10 shall adopt a written plan setting forth the conditions of the merger. A merger of county units
11 and reorganization of those units under this section shall not have the effect of abolishing any
12 special taxes that may have been voted in any such units."

13
14 LIMIT LOCAL BOARD OF EDUCATION WAIVERS

15 SECTION 8A.6.(a) G.S. 115C-105.26 reads as rewritten:

16 "§ 115C-105.26. Waivers of State laws, rules, or policies.laws or rules.

17 (a) ~~When included as part of a school improvement plan accepted under~~
18 ~~G.S. 115C-105.27, local boards of education shall submit requests for waivers of State laws,~~
19 ~~rules, or policies to the State Board of Education. A~~Except as otherwise provided for in this
20 section, the State Board of Education shall not grant waivers of State laws or rules to local
21 boards of education. If permitted under this section, a request for a waiver by a local board of
22 education shall (i) identify the school or schools making the request, (ii) identify the State laws,
23 rules, or policies that inhibit the school's ability to improve student performance,law or rule
24 requesting to be waived, (iii) set out with specificity the circumstances under which the waiver
25 may be used, and (iv) explain how the requested waiver will permit the school to improve
26 student performance.

27 ~~Except as provided in subsection (c) of this section, the State Board shall grant waivers only~~
28 ~~for the specific schools for which they are requested and shall be used only under the specific~~
29 ~~circumstances for which they are requested.~~

30 (b) ~~When requested as part of a school improvement plan, the~~The State Board of
31 Education may grant waivers of: to local boards of education of State laws and rules pertaining
32 to the following:

33 (1) ~~State laws pertaining to class~~Class size and teacher certification; and
34 requirements only as provided in G.S. 115C-301(g).

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

42 (3) School calendar requirements in order to provide sufficient days to
43 accommodate anticipated makeup days due to school closings only as
44 provided in G.S. 115C-84.2(d).

45 (c) ~~The State Board also may grant requests received from local boards for waivers of~~
46 ~~State laws, rules, or policies that affect the organization, duties, and assignment of central~~
47 ~~office staff only. However, none of the duties to be performed under G.S. 115C-436 may be~~
48 ~~waived.~~

49 (c1) ~~The State Board also may grant requests received from local boards for waivers of~~
50 ~~State laws, rules, or policies that require that each local school administrative unit provide at~~
51 ~~least one alternative school or at least one alternative learning program.~~

(d) ~~Notwithstanding subsections (b) and (c) of this section, the State Board shall not grant waivers of G.S. 115C-12(16)b. regarding the placement of State allotted office support personnel, teacher assistants, and custodial personnel on the salary schedule adopted by the State Board.~~

(e) ~~Notwithstanding subsection (b) of this section, the State Board may grant requests received from local boards for waivers of State laws, rules, or policies pertaining to the placement of principals on the State salary schedule for public school administrators in order to provide financial incentives to encourage principals to accept employment in a school that has been identified as low performing under G.S. 115C-105.37. The State Board shall act on requests under this subsection at the first Board meeting following receipt of each request.~~

(f) ~~Except as provided in subsection (e) of this section, the~~ The State Board shall act within 60 days of receipt of all requests for waivers under this section.

(g) The State Board shall, on a regular basis, review all waivers it has granted to determine whether any rules should be repealed or modified or whether the Board should recommend to the General Assembly the repeal or modification of any laws.

(h) By September 15 of each year, the State Board shall report to the Joint Legislative Education Oversight Committee with a list of the specific waivers granted to each local board of education under this section. The State Board may include any legislative recommendations identified under subsection (g) of this section in its report.

SECTION 8A.6.(b) This section applies beginning with the 2015-2016 school year.

PART IX. COMPENSATION OF PUBLIC SCHOOL EMPLOYEES

TEACHER SALARY SCHEDULE

SECTION 9.1.(a) The following monthly teacher salary schedule shall apply for the 2015-2017 fiscal biennium to licensed personnel of the public schools who are classified as teachers. The salary schedule is based on years of teaching experience.

2015-2017 Teacher Monthly Salary Schedule

| Years of Experience | "A" Teachers |
|----------------------------|---------------------|
| 0-4 | \$3,500 |
| 5-9 | 3,825 |
| 10-14 | 4,125 |
| 15-19 | 4,425 |
| 20-24 | 4,700 |
| 25+ | 5,000. |

SECTION 9.1.(b) Salary Supplements for Teachers Paid on This Salary Schedule.

- (1) Licensed teachers who have NBPTS certification shall receive a salary supplement each month of twelve percent (12%) of their monthly salary on the "A" salary schedule.
- (2) Licensed teachers who are classified as "M" teachers shall receive a salary supplement each month of ten percent (10%) of their monthly salary on the "A" salary schedule.
- (3) Licensed teachers with licensure based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to the supplement provided to them as "M" teachers.
- (4) Licensed teachers with licensure based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred

1 fifty-three dollars (\$253.00) per month in addition to the supplement
 2 provided to them as "M" teachers.

3 (5) Certified school nurses shall receive a salary supplement each month of ten
 4 percent (10%) of their monthly salary on the "A" salary schedule.

5 **SECTION 9.1.(c)** The first step of the salary schedule for (i) school psychologists,
 6 (ii) school speech pathologists who are licensed as speech pathologists at the master's degree
 7 level or higher, and (iii) school audiologists who are licensed as audiologists at the master's
 8 degree level or higher shall be equivalent to Step 5 of the "A" salary schedule. These
 9 employees shall receive a salary supplement each month of ten percent (10%) of their monthly
 10 salary and are eligible to receive salary supplements equivalent to those of teachers for
 11 academic preparation at the six-year degree level or the doctoral degree level.

12 **SECTION 9.1.(d)** In lieu of providing annual longevity payments to teachers paid
 13 on this salary schedule for the 2014-2015 fiscal year and subsequent fiscal years, the amounts
 14 of those longevity payments are included in the monthly amounts under this salary schedule.

15 **SECTION 9.1.(e)** A teacher compensated in accordance with this salary schedule
 16 for the 2015-2016 and 2016-2017 school years shall receive an amount equal to the greater of
 17 (i) the applicable amount on the salary schedule for the applicable school year, (ii) for teachers
 18 who were eligible for longevity for the 2013-2014 school year, the sum of the teacher's salary
 19 and bonus for the 2013-2014 school year plus longevity based on the percentage of that salary
 20 equivalent to the teacher's years of service under the longevity system in effect for the
 21 2013-2014 school year, or (iii) for teachers who were not eligible for longevity for the
 22 2013-2014 school year, the sum of the teacher's salary and bonus for the 2013-2014 school
 23 year.

24 **SECTION 9.1.(f)** As used in this section, the term "teacher" shall also include
 25 instructional support personnel.
 26

27 **SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE**

28 **SECTION 9.2.(a)** The following monthly base salary schedule for school-based
 29 administrators shall apply only to principals and assistant principals. This base salary schedule
 30 shall apply for the 2015-2016 fiscal year commencing July 1, 2015.

31 **2015-2016 Principal and Assistant Principal Salary Schedules**

32 **Classification**

| 33 Years of Exp | Assistant | Prin I | Prin II | Prin III | Prin IV |
|-----------------|-----------|---------|---------|----------|---------|
| 34 | Principal | (0-10) | (11-21) | (22-32) | (33-43) |
| 35 0-9 | \$3,895 | - | - | - | - |
| 36 10 | \$3,977 | - | - | - | - |
| 37 11 | \$4,123 | - | - | - | - |
| 38 12 | \$4,240 | - | - | - | - |
| 39 13 | \$4,323 | \$4,323 | - | - | - |
| 40 14 | \$4,377 | \$4,377 | - | - | - |
| 41 15 | \$4,434 | \$4,434 | \$4,489 | - | - |
| 42 16 | \$4,489 | \$4,489 | \$4,547 | - | - |
| 43 17 | \$4,547 | \$4,547 | \$4,606 | \$4,665 | - |
| 44 18 | \$4,606 | \$4,606 | \$4,665 | \$4,726 | \$4,788 |
| 45 19 | \$4,665 | \$4,665 | \$4,726 | \$4,788 | \$4,851 |
| 46 20 | \$4,726 | \$4,726 | \$4,788 | \$4,851 | \$4,918 |
| 47 21 | \$4,788 | \$4,788 | \$4,851 | \$4,918 | \$4,983 |
| 48 22 | \$4,851 | \$4,851 | \$4,918 | \$4,983 | \$5,050 |
| 49 23 | \$4,918 | \$4,918 | \$4,983 | \$5,050 | \$5,119 |
| 50 24 | \$4,983 | \$4,983 | \$5,050 | \$5,119 | \$5,188 |
| 51 25 | \$5,050 | \$5,050 | \$5,119 | \$5,188 | \$5,263 |

| | | | | | | |
|----|----|---------|---------|---------|---------|---------|
| 1 | 26 | \$5,119 | \$5,119 | \$5,188 | \$5,263 | \$5,335 |
| 2 | 27 | \$5,188 | \$5,188 | \$5,263 | \$5,335 | \$5,409 |
| 3 | 28 | \$5,263 | \$5,263 | \$5,335 | \$5,409 | \$5,483 |
| 4 | 29 | \$5,335 | \$5,335 | \$5,409 | \$5,483 | \$5,561 |
| 5 | 30 | \$5,409 | \$5,409 | \$5,483 | \$5,561 | \$5,641 |
| 6 | 31 | \$5,483 | \$5,483 | \$5,561 | \$5,641 | \$5,722 |
| 7 | 32 | \$5,561 | \$5,561 | \$5,641 | \$5,722 | \$5,794 |
| 8 | 33 | \$5,641 | \$5,641 | \$5,722 | \$5,794 | \$5,909 |
| 9 | 34 | \$5,722 | \$5,722 | \$5,794 | \$5,909 | \$6,027 |
| 10 | 35 | \$5,794 | \$5,794 | \$5,909 | \$6,027 | \$6,148 |
| 11 | 36 | \$5,909 | \$5,909 | \$6,027 | \$6,148 | \$6,271 |
| 12 | 37 | - | \$6,027 | \$6,148 | \$6,271 | \$6,396 |
| 13 | 38 | - | - | \$6,271 | \$6,396 | \$6,524 |
| 14 | 39 | - | - | \$6,396 | \$6,524 | \$6,654 |
| 15 | 40 | - | - | - | \$6,654 | \$6,787 |
| 16 | 41 | - | - | - | \$6,787 | \$6,923 |
| 17 | 42 | - | - | - | - | \$7,061 |

2015-2016 Principal and Assistant Principal Salary Schedules

Classification

| Years of Exp | Prin V (44-54) | Prin VI (55-65) | Prin VII (66-100) | Prin VIII (101+) |
|--------------|-------------------|--------------------|----------------------|---------------------|
| 0-19 | \$4,918 | - | - | - |
| 20 | \$4,983 | - | - | - |
| 21 | \$5,050 | \$5,119 | - | - |
| 22 | \$5,119 | \$5,188 | \$5,335 | - |
| 23 | \$5,188 | \$5,263 | \$5,409 | \$5,483 |
| 24 | \$5,263 | \$5,335 | \$5,483 | \$5,561 |
| 25 | \$5,335 | \$5,409 | \$5,561 | \$5,641 |
| 26 | \$5,409 | \$5,483 | \$5,641 | \$5,722 |
| 27 | \$5,483 | \$5,561 | \$5,722 | \$5,794 |
| 28 | \$5,561 | \$5,641 | \$5,794 | \$5,909 |
| 29 | \$5,641 | \$5,722 | \$5,909 | \$6,027 |
| 30 | \$5,722 | \$5,794 | \$6,027 | \$6,148 |
| 31 | \$5,794 | \$5,909 | \$6,148 | \$6,271 |
| 32 | \$5,909 | \$6,027 | \$6,271 | \$6,396 |
| 33 | \$6,027 | \$6,148 | \$6,396 | \$6,524 |
| 34 | \$6,148 | \$6,271 | \$6,524 | \$6,654 |
| 35 | \$6,271 | \$6,396 | \$6,654 | \$6,787 |
| 36 | \$6,396 | \$6,524 | \$6,787 | \$6,923 |
| 37 | \$6,524 | \$6,654 | \$6,923 | \$7,061 |
| 38 | \$6,654 | \$6,787 | \$7,061 | \$7,202 |
| 39 | \$6,787 | \$6,923 | \$7,202 | \$7,346 |
| 40 | \$6,923 | \$7,061 | \$7,346 | \$7,493 |
| 41 | \$7,061 | \$7,202 | \$7,493 | \$7,643 |
| 42 | \$7,202 | \$7,346 | \$7,643 | \$7,796 |
| 43 | \$7,346 | \$7,493 | \$7,796 | \$7,952 |
| 44 | | \$7,643 | \$7,952 | \$8,111 |
| 45 | - | \$7,796 | \$8,111 | \$8,273 |
| 46+ | - | - | \$8,273 | \$8,438 |

1 **SECTION 9.2.(b)** The appropriate classification for placement of principals and
 2 assistant principals on the salary schedule, except for principals in alternative schools and in
 3 cooperative innovative high schools, shall be determined in accordance with the following
 4 schedule:

| Classification | Number of Teachers Supervised |
|---------------------------------|--------------------------------------|
| 5 Assistant Principal | |
| 6 Principal I | Fewer than 11 Teachers |
| 7 Principal II | 11-21 Teachers |
| 8 Principal III | 22-32 Teachers |
| 9 Principal IV | 33-43 Teachers |
| 10 Principal V | 44-54 Teachers |
| 11 Principal VI | 55-65 Teachers |
| 12 Principal VII | 66-100 Teachers |
| 13 Principal VIII | More than 100 Teachers |

14 The number of teachers supervised includes teachers and assistant principals paid
 15 from State funds only; it does not include teachers or assistant principals paid from non-State
 16 funds or the principal or teacher assistants.

17 The beginning classification for principals in alternative schools and in cooperative
 18 innovative high school programs shall be the Principal III level. Principals in alternative
 19 schools who supervise 33 or more teachers shall be classified according to the number of
 20 teachers supervised.

21 **SECTION 9.2.(c)** A principal shall be placed on the step on the salary schedule
 22 that reflects the total number of years of experience as a certified employee of the public
 23 schools and an additional step for every three years of experience serving as a principal on or
 24 before June 30, 2009. A principal or assistant principal shall also continue to receive any
 25 additional State-funded percentage increases earned for the 1997-1998, 1998-1999, and
 26 1999-2000 school years for improvement in student performance or maintaining a safe and
 27 orderly school.

28 **SECTION 9.2.(d)** Principals and assistant principals with certification based on
 29 academic preparation at the six-year degree level shall be paid a salary supplement of one
 30 hundred twenty-six dollars (\$126.00) per month and at the doctoral degree level shall be paid a
 31 salary supplement of two hundred fifty-three dollars (\$253.00) per month.

32 **SECTION 9.2.(e)** Longevity pay for principals and assistant principals shall be as
 33 provided for State employees under the North Carolina Human Resources Act.

34 **SECTION 9.2.(f)** If a principal is reassigned to a higher job classification because
 35 the principal is transferred to a school within a local school administrative unit with a larger
 36 number of State-allotted teachers, the principal shall be placed on the salary schedule as if the
 37 principal had served the principal's entire career as a principal at the higher job classification.

38 If a principal is reassigned to a lower job classification because the principal is
 39 transferred to a school within a local school administrative unit with a smaller number of
 40 State-allotted teachers, the principal shall be placed on the salary schedule as if the principal
 41 had served the principal's entire career as a principal at the lower job classification.

42 This subsection applies to all transfers on or after the effective date of this section,
 43 except transfers in school systems that have been created, or will be created, by merging two or
 44 more school systems. Transfers in these merged systems are exempt from the provisions of this
 45 subsection for one calendar year following the date of the merger.

46 **SECTION 9.2.(g)** Participants in an approved full-time master's in-school
 47 administration program shall receive up to a 10-month stipend at the beginning salary of an
 48 assistant principal during the internship period of the master's program. The stipend shall not
 49 exceed the difference between the beginning salary of an assistant principal plus the cost of
 50 tuition, fees, and books and any fellowship funds received by the intern as a full-time student,
 51

1 including awards of the Principal Fellows Program. The Principal Fellows Program or the
2 school of education where the intern participates in a full-time master's in-school administration
3 program shall supply the Department of Public Instruction with certification of eligible
4 full-time interns.

5 **SECTION 9.2.(h)** During the 2015-2016 fiscal year, the placement on the salary
6 schedule of an administrator with a one-year provisional assistant principal's certificate shall be
7 at the entry-level salary for an assistant principal or the appropriate step on the teacher salary
8 schedule, whichever is higher.

9 **SECTION 9.2.(i)** It is the intent of the General Assembly to modify the
10 compensation system for principals and assistant principals, effective July 1, 2016.

11 12 **CENTRAL OFFICE SALARIES**

13 **SECTION 9.3.(a)** The monthly salary ranges that follow apply to assistant
14 superintendents, associate superintendents, directors/coordinators, supervisors, and finance
15 officers for the 2015-2017 fiscal biennium, beginning July 1, 2015.

| | | | |
|----|--------------------------|----------|----------|
| 16 | School Administrator I | \$ 3,391 | \$ 6,323 |
| 17 | School Administrator II | \$ 3,592 | \$ 6,704 |
| 18 | School Administrator III | \$ 3,811 | \$ 7,110 |
| 19 | School Administrator IV | \$ 3,962 | \$ 7,391 |
| 20 | School Administrator V | \$ 4,120 | \$ 7,689 |
| 21 | School Administrator VI | \$ 4,368 | \$ 8,151 |
| 22 | School Administrator VII | \$ 4,542 | \$ 8,478 |

23 The local board of education shall determine the appropriate category and
24 placement for each assistant superintendent, associate superintendent, director/coordinator,
25 supervisor, or finance officer within the salary ranges and within funds appropriated by the
26 General Assembly for central office administrators and superintendents. The category in which
27 an employee is placed shall be included in the contract of any employee.

28 **SECTION 9.3.(b)** The monthly salary ranges that follow apply to public school
29 superintendents for the 2015-2017 fiscal biennium, beginning July 1, 2015.

| | | | |
|----|--------------------|----------|-----------|
| 30 | Superintendent I | \$ 4,819 | \$ 8,991 |
| 31 | Superintendent II | \$ 5,113 | \$ 9,532 |
| 32 | Superintendent III | \$ 5,422 | \$ 10,109 |
| 33 | Superintendent IV | \$ 5,752 | \$ 10,721 |
| 34 | Superintendent V | \$ 6,102 | \$ 11,372 |

35 The local board of education shall determine the appropriate category and
36 placement for the superintendent based on the average daily membership of the local school
37 administrative unit and within funds appropriated by the General Assembly for central office
38 administrators and superintendents.

39 **SECTION 9.3.(c)** Longevity pay for superintendents, assistant superintendents,
40 associate superintendents, directors/coordinators, supervisors, and finance officers shall be as
41 provided for State employees under the State Personnel Act.

42 **SECTION 9.3.(d)** Superintendents, assistant superintendents, associate
43 superintendents, directors/coordinators, supervisors, and finance officers with certification
44 based on academic preparation at the six-year degree level shall receive a salary supplement of
45 one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided
46 pursuant to this section. Superintendents, assistant superintendents, associate superintendents,
47 directors/coordinators, supervisors, and finance officers with certification based on academic
48 preparation at the doctoral degree level shall receive a salary supplement of two hundred
49 fifty-three dollars (\$253.00) per month in addition to the compensation provided for under this
50 section.

1 **SECTION 9.3.(e)** The State Board of Education shall not permit local school
2 administrative units to transfer State funds from other funding categories for salaries for public
3 school central office administrators.
4

5 **NONCERTIFIED PERSONNEL SALARIES**

6 **SECTION 9.4.** The annual salary for permanent full-time and part-time
7 noncertified public school employees whose salaries are supported from the State's General
8 Fund shall remain unchanged for the 2015-2017 fiscal biennium.
9

10 **NO PAY LOSS FOR TEACHERS WHO BECOME ADMINISTRATORS OR** 11 **ASSISTANT PRINCIPALS WHO BECOME PRINCIPALS**

12 **SECTION 9.5.(a)** Section 7.22(b) of S.L. 2009-451 reads as rewritten:

13 "**SECTION 7.22.(b)** This section becomes effective ~~July 1, 2009, and applies to all~~
14 ~~persons initially employed as assistant principals on or after that date.~~ July 1, 2009."

15 **SECTION 9.5.(b)** G.S. 115C-285(a) is amended by adding a new subdivision to
16 read:

17 "(9) An assistant principal who becomes a principal without a break in service
18 shall be paid, on a monthly basis, at least as much as he or she would earn as
19 an assistant principal employed by that local school administrative unit."
20

21 **PART X. COMMUNITY COLLEGES**

22 **REORGANIZATION OF THE COMMUNITY COLLEGES SYSTEM OFFICE**

23 **SECTION 10.1.(a)** Notwithstanding any other provision of law, and consistent
24 with the authority established in G.S. 115D-3, the President of the North Carolina Community
25 College System may reorganize the System Office in accordance with recommendations and
26 plans submitted to and approved by the State Board of Community Colleges.
27

28 **SECTION 10.1.(b)** This section expires June 30, 2017.
29

30 **BASIC SKILLS PLUS**

31 **SECTION 10.2.(a)** G.S. 115D-5(b) is amended by adding a new subdivision to
32 read:

33 "(b) In order to make instruction as accessible as possible to all citizens, the teaching of
34 curricular courses and of noncurricular extension courses at convenient locations away from
35 institution campuses as well as on campuses is authorized and shall be encouraged. A pro rata
36 portion of the established regular tuition rate charged a full-time student shall be charged a
37 part-time student taking any curriculum course. In lieu of any tuition charge, the State Board of
38 Community Colleges shall establish a uniform registration fee, or a schedule of uniform
39 registration fees, to be charged students enrolling in extension courses for which instruction is
40 financed primarily from State funds. The State Board of Community Colleges may provide by
41 general and uniform regulations for waiver of tuition and registration fees for the following:

42 ...
43 (15) Courses providing employability skills, job-specific occupational or
44 technical skills, or developmental education instruction to certain students
45 who are concurrently enrolled in an eligible community college literacy
46 course, in accordance with rules adopted by the State Board of Community
47 Colleges.
48 ...

49 The State Board of Community Colleges shall not waive tuition and registration fees for
50 other individuals."

51 **SECTION 10.2.(b)** G.S. 115D-31(b1) reads as rewritten:

1 "(b1) A local community college may use all State funds allocated to it, except for
2 Literacy funds and Customized Training funds, for any authorized purpose that is consistent
3 with the college's Institutional Effectiveness Plan. The State Board of Community Colleges
4 may authorize a local community college to use up to twenty percent (20%) of the State
5 Literacy funds allocated to it to provide employability skills, job-specific occupational and
6 technical skills, and developmental education instruction to students concurrently enrolled in an
7 eligible community college literacy course.

8 Each local community college shall include in its Institutional Effectiveness Plan a section
9 on how funding flexibility allows the college to meet the demands of the local community and
10 to maintain a presence in all previously funded categorical programs."

11 12 **EQUIPMENT FUNDING**

13 **SECTION 10.3.** For the 2015-2017 fiscal biennium, community colleges may
14 expend regular equipment allocations on equipment and on repairs, renovations, and new
15 construction, necessary to accommodate equipment. Colleges must match funds expended on
16 new construction on an equal matching-fund basis in accordance with G.S. 115D-31.
17 Notwithstanding any other provision of law, community colleges are not required to match
18 funds expended on repairs and renovations of existing facilities.

19 Colleges must have capital improvement projects approved by the State Board of
20 Community Colleges and any required matching funds identified by June 30, 2017.

21 22 **COLLEGES EARN BUDGET FTE FOR CERTAIN COURSES TAUGHT DURING** 23 **THE SUMMER TERM**

24 **SECTION 10.5.(a)** G.S. 115D-5(v) reads as rewritten:

25 "(v) Community colleges may teach technical education, health care, developmental
26 education, ~~and STEM-related courses~~ courses, and the Universal General Education Transfer
27 Courses contained in the Comprehensive Articulation Agreement entered into between The
28 University of North Carolina and the North Carolina Community College System at any time
29 during the year, including the summer term. Student membership hours from these courses
30 shall be counted when computing full-time equivalent students (FTE) for use in budget funding
31 formulas at the State level."

32 **SECTION 10.5.(b)** The State Board of Community Colleges shall report to the
33 Joint Legislative Education Oversight Committee by October 1, 2015, on FTE for the summer
34 2015 term.

35 **SECTION 10.5.(c)** This section applies beginning with the summer 2015 term.

36 37 **COMMUNITY COLLEGES PROGRAM COMPLIANCE REVIEW FUNCTION**

38 **SECTION 10.6.(a)** Section 10.15(a) of S.L. 2013-360 is repealed.

39 **SECTION 10.6.(b)** G.S. 115D-5(m) reads as rewritten:

40 "(m) The State Board of Community Colleges shall maintain an ~~education program~~
41 ~~auditing~~ accountability function that conducts ~~an annual audit~~ periodic reviews of each
42 community college operating under the provisions of this Chapter. The purpose of the ~~annual~~
43 ~~audit~~ compliance review shall be to ensure that ~~college programs and related fiscal operations~~
44 ~~comply with State law, State regulations, State Board policies, and System Office guidance.~~ (i)
45 data used to allocate State funds among community colleges is reported accurately to the
46 System Office and (ii) community colleges are charging and waiving tuition and registration
47 fees consistent with law. The State Board of Community Colleges shall require ~~auditors of~~
48 ~~community college programs to the use of~~ a statistically valid sample size in performing
49 ~~program audits~~ compliance reviews of community colleges. All ~~education program audit~~
50 ~~compliance review findings that are determined to be material~~ shall be forwarded to the college
51 president, local college board of trustees, the State Board of Community Colleges, and the State

1 Auditor. The State Board of Community Colleges shall adopt rules governing the frequency,
2 scope, and standard of materiality for compliance reviews."

3 **SECTION 10.6.(c)** Subsection (b) of this section applies to compliance reviews
4 beginning with the 2015-2016 academic year.

6 **CAREER AND COLLEGE READY GRADUATES**

7 **SECTION 10.13.(a)** The State Board of Community Colleges, in consultation with
8 the State Board of Education, shall develop a program for implementation in the 2016-2017
9 school year that introduces the college developmental mathematics and developmental reading
10 and English curriculums in the high school senior year and provide opportunities for college
11 remediation for students prior to high school graduation through cooperation with community
12 college partners. Students who are enrolled in the Occupational Course of Study to receive their
13 high school diplomas shall not be required to participate in the program or be required to take
14 mandatory remedial courses as provided for in this section, unless a parent specifically requests
15 through the individualized education program (IEP) process that the student participates. The
16 program shall require the following:

- 17 (1) Establishment by the State Board of Community Colleges of measures for
18 determining student readiness and preparation for college coursework by
19 using ACT scores, student grade point averages, or other measures currently
20 used by the State Board of Community Colleges to determine college
21 readiness for entering students.
- 22 (2) Changes in curriculum, policy, and rules as needed by the State Board of
23 Community Colleges and State Board of Education to make remedial
24 courses mandatory for students who do not meet readiness indicators by
25 their junior year to ensure college readiness prior to high school graduation.
26 These changes shall include the flexibility for students to fulfill senior
27 mathematics and English graduation requirements through enrollment in
28 mandatory remedial courses or to enroll in those courses as electives.
- 29 (3) Revisions to current direct instruction remediation modules used by the
30 North Carolina community colleges by the State Board of Community
31 Colleges, in cooperation with the State Board of Education, to provide
32 remedial education to high school students.
- 33 (4) Determinations by the State Board of Community Colleges on the following:
 - 34 a. Appropriate measures of successful completion of the remedial
35 courses to ensure students are prepared for coursework at a North
36 Carolina community college without need for further remediation in
37 mathematics or reading and English.
 - 38 b. The length of time following high school graduation in which a
39 student who successfully completed high school remedial courses
40 will not be required to enroll in developmental courses at a North
41 Carolina community college.
- 42 (5) Policies established by the State Board of Community Colleges and State
43 Board of Education for delivery of college remediation instruction in high
44 schools. The policies shall include the following requirements:
 - 45 a. Faculty from the partner community college will provide training and
46 oversight for high school faculty who will serve as facilitators for
47 high school students enrolled in the remedial courses.
 - 48 b. Faculty from the partner community college will make regular site
49 visits to provide assistance to students and high school faculty with
50 the remedial courses.

- 1 c. Partner high schools shall identify and assign appropriate faculty to
2 the remedial course. Assigned faculty shall be trained by partner
3 community college faculty prior to the start of the school year or
4 semester in which the faculty will facilitate the remedial course.
5 d. Partner high schools shall provide appropriate technology resources
6 for delivery of the remedial course modules.

7 **SECTION 10.13.(b)** The State Board of Community Colleges and the State Board
8 of Education shall report on progress of implementation of the program statewide, including the
9 requirements in subsection (a) of this section, to the Joint Legislative Education Oversight
10 Committee no later than January 15, 2016.

11
12 **NC WORKS CAREER COACHES**

13 **SECTION 10.14.(a)** Article 2 of Chapter 115D of the General Statutes is amended
14 by adding a new section to read:

15 **"§ 115D-21.5. NC Works Career Coach Program.**

16 (a) Purpose. – There is established the NC Works Career Coach Program to place
17 community college career coaches in high schools to assist students with determining career
18 goals and identifying community college programs that would enable students to achieve these
19 goals.

20 (b) Memorandum of Understanding. – The board of trustees of a community college
21 and a local board of education of a local school administrative unit within the service area of
22 the community college shall enter into a memorandum of understanding for the placement of
23 career coaches employed by the board of trustees of the community college in schools within
24 the local school administrative unit. At a minimum, the memorandum of understanding shall
25 include the following:

26 (1) Requirement that the community college provides the following:

- 27 a. Hiring, training, and supervision of career coaches. The board of
28 trustees may include a local board of education liaison on the hiring
29 committee and to participate in the decision making regarding hiring
30 for the coach positions.
31 b. Salary, benefits, and all other expenses related to the employment of
32 the career coach. The coach will be an employee of the board of
33 trustees and will not be an agent or employee of the local board of
34 education.
35 c. Development of pedagogical materials and technologies needed to
36 enhance the advising process.
37 d. Criminal background checks required by the local school
38 administrative unit for employees working directly with students.
39 e. Agreement that, while on any school campus, the career coach will
40 obey all local board of education rules and will be subject to the
41 authority of the school building administration.

42 (2) Requirement that the local school administrative unit provides the following
43 to career coaches:

- 44 a. Access to student records, as needed to carry out the coach's job
45 responsibilities.
46 b. Office space on site appropriate for student advising.
47 c. Information technology resources, including, but not limited to,
48 Internet access, telephone, and copying.
49 d. Initial school orientation and ongoing integration into the faculty and
50 staff community.
51 e. Promotion of school-wide awareness of coach duties.

- 1 f. Facilitation of coach's access to individual classes and larger
2 assemblies for the purposes of awareness-building.
- 3 (c) Application for NC Works Career Coach Program Funding. – The board of trustees
4 of a community college and a local board of education of a local school administrative unit
5 within the service area of the community college jointly may apply for available funds for NC
6 Works Career Coach Program funding from the State Board of Community Colleges. The State
7 Board of Community Colleges shall establish a process for award of funds as follows:
- 8 (1) Advisory committee. – Establishment of an advisory committee, which shall
9 include representatives from the NC Community College System, the
10 Department of Public Instruction, the NC Works initiative located in the
11 Department of Commerce, and at least three representatives of the business
12 community, to review applications and make recommendations for funding
13 awards to the State Board.
- 14 (2) Application submission requirements. – The State Board shall require at
15 least the following:
- 16 a. Evidence of a signed memorandum of understanding that meets, at a
17 minimum, the requirements of this section.
- 18 b. Evidence that the funding request will be matched dollar-for-dollar
19 with local funds. Matching funds may come from public or private
20 sources.
- 21 (3) Awards criteria. – The State Board shall develop criteria for consideration in
22 determining the award of funds that shall include the following:
- 23 a. Consideration of the workforce needs of business and industry in the
24 region.
- 25 b. Targeting of resources to enhance ongoing economic activity within
26 the community college service area and surrounding counties.
- 27 c. Geographic diversity of awards.
- 28 (d) Annual Report. –
- 29 (1) The board of trustees of a community college that employs one or more
30 career coaches shall report annually to the State Board of Community
31 Colleges on implementation and outcomes of the program, including the
32 following information:
- 33 a. Number of career coaches employed.
- 34 b. Number of local school administrative units served and names of
35 schools in which career coaches are placed.
- 36 c. Number of students annually counselled by career coaches.
- 37 d. Impact of career coaches on student choices, as determined by a valid
38 measure selected by the State Board of Community Colleges.
- 39 (2) The State Board of Community Colleges shall report annually no later than
40 October 1 to the Joint Legislative Education Oversight Committee on the
41 following:
- 42 a. A compilation of the information reported by the board of trustees of
43 community colleges, as provided in subdivision (1) of this
44 subsection.
- 45 b. Number and names of partnership applicants for NC Works Career
46 Coach Program funding.
- 47 c. Number, names, and amounts of those awarded NC Works Career
48 Coach Program funding."

49 **SECTION 10.14.(b)** The State Board of Community Colleges shall begin
50 accepting applications for available funds for NC Works Career Coach Program funding no

1 later than December 1, 2015, and shall select the initial recipients for the award of funds no
2 later than February 1, 2016.

3 **SECTION 10.14.(c)** The funds appropriated under this act to the Community
4 Colleges System Office for the 2015-2017 fiscal biennium to match non-State funds to
5 implement the NC Works Career Coach Program shall only be used for salary and benefits for
6 NC Works Career Coaches.

7 **DRIVER EDUCATION AND SAFETY INSTRUCTION PROGRAM**

8 **SECTION 10.15.(a)** The North Carolina Community Colleges System Office shall
9 conduct a feasibility study on the establishment of a statewide, tuition-based drivers education
10 program delivered through the Community Colleges System Office for all students older than
11 14 years and six months who (i) are enrolled in a public high school, a private high school, or a
12 home school within the State and (ii) have not previously enrolled in a program delivered
13 through the public schools or the Community Colleges System Office. In the course of the
14 study, the System Office shall consider the cost of the program and options for funding it,
15 including fees, State funds, or a combination of fees and State funds.

16
17 The System Office shall report to the Joint Legislative Education Oversight
18 Committee prior to March 15, 2016, on the results of the study.

19 **SECTION 10.15.(b)** G.S. 115D-20(4)c. reads as rewritten:

20 "c. ~~High school students may be permitted to take noncredit courses in~~
21 ~~safe driving on a self-supporting basis during the academic year or~~
22 ~~the summer. Students older than 14 years and six months who (i) are~~
23 ~~enrolled in a public high school, a private high school, or a home~~
24 ~~school within the State and (ii) have not previously enrolled in a~~
25 ~~program delivered through the public schools or the Community~~
26 ~~Colleges System Office may take driver education and safety~~
27 ~~instruction in accordance with the Driver Education Safety~~
28 ~~Instruction Program, as established under G.S. 115D-76.5. The~~
29 ~~program may be funded with State funds, on a self-supporting basis,~~
30 ~~or a combination of both and may be offered during the academic~~
31 ~~year or the summer."~~

32 **SECTION 10.15.(c)** Chapter 115D of the General Statutes is amended by adding a
33 new article to read:

34 "Article 6B.

35 "Driver Education and Safety Instruction.

36 **"§ 115D-76.5. Driver Education and Safety Instruction Program.**

37 (a) There is created a Driver Education and Safety Instruction Program for the purpose
38 of establishing statewide driver education and safety instruction to be delivered through the
39 Community Colleges System Office for all students older than 14 years and six months who (i)
40 are enrolled in a public high school, a private high school, or a home school within the State
41 and (ii) have not previously enrolled in a program delivered through the public schools or the
42 Community Colleges System Office. The Program may be administered by a driver education
43 and safety coordinator who shall be responsible for the planning, curriculum, and completion
44 requirements of the Program. The State Board of Community Colleges may elect a driver
45 education and safety coordinator upon nomination by the President of the Community College
46 System, and the compensation of the driver education and safety coordinator shall be fixed by
47 the State Board upon recommendation of the President of the Community College System
48 pursuant to G.S. 115D-3. The State Board of Community Colleges may contract with an
49 appropriate public or private agency or person to carry out the duties of the driver education
50 and safety coordinator.

1 **(b)** The Driver Education and Safety Instruction Program shall be implemented through
2 the Community Colleges System Office. The driver education and safety coordinator shall
3 select and facilitate the training and certification of instructors who will implement the
4 Program.

5 **(c)** The State Board of Community Colleges shall adopt a curriculum, standards, and
6 other policies and procedures for the program."

7 **SECTION 10.15.(d)** Effective July 1, 2016, the Community Colleges System
8 Office shall provide driver education and safety instruction in accordance with G.S. 115D-76.5,
9 as enacted in subsection (b) of this section.

10 **SECTION 10.15.(e)** Notwithstanding G.S. 20-87(6), of the revenue collected on or
11 after the date this act becomes law for the Motorcycle Safety Instruction Program, the
12 Community Colleges System Office may use up to two hundred thousand dollars (\$200,000)
13 for the 2015-2016 fiscal year to conduct the study required by subsection (a) of this section.

14 **SECTION 10.15.(f)** Subsection (b) of this section is effective July 1, 2016.

16 **PART XI. UNIVERSITIES**

18 **USE OF ESCHEAT FUNDS FOR STUDENT FINANCIAL AID** 19 **PROGRAMS/TECHNICAL CORRECTIONS**

20 **SECTION 11.1.(a)** The funds appropriated by this act from the Escheat Fund for
21 the 2015-2017 fiscal biennium for student financial aid shall be allocated in accordance with
22 G.S. 116B-7. Notwithstanding any other provision of Chapter 116B of the General Statutes, if
23 the interest income generated from the Escheat Fund is less than the amounts referenced in this
24 act, the difference may be taken from the Escheat Fund principal to reach the appropriations
25 referenced in this act; however, under no circumstances shall the Escheat Fund principal be
26 reduced below the sum required in G.S. 116B-6(f). If any funds appropriated from the Escheat
27 Fund by this act for student financial aid remain uncommitted aid as of the end of a fiscal year,
28 the funds shall be returned to the Escheat Fund, but only to the extent the funds exceed the
29 amount of the Escheat Fund income for that fiscal year.

30 **SECTION 11.1.(b)** The State Education Assistance Authority (SEAA) shall
31 conduct periodic evaluations of expenditures of the student financial aid programs administered
32 by SEAA to determine if allocations are utilized to ensure access to institutions of higher
33 learning and to meet the goals of the respective programs. The SEAA may make
34 recommendations for redistribution of funds to The University of North Carolina, and the
35 President of the Community College System regarding their respective student financial aid
36 programs, who then may authorize redistribution of unutilized funds for a particular fiscal year.

37 **SECTION 11.1(c)** G.S. 116B-7(b) reads as rewritten:

38 "(b) An amount specified in the Current Operations Appropriations Act shall be
39 transferred annually from the Escheat Fund to the Department of ~~Administration~~ Military and
40 Veterans Affairs to partially fund the program of Scholarships for Children of War Veterans
41 established by Article 4 of Chapter 165 of the General Statutes. Those funds may be used only
42 for residents of this State who (i) are worthy and needy as determined by the Department of
43 ~~Administration~~ Military and Veterans Affairs and (ii) are enrolled in public institutions of
44 higher education of this State."

45 **SECTION 11.1(d)** G.S. 116B-6 reads as rewritten:

46 "**§ 116B-6. Administration of Escheat Fund; Escheat Account.**

47 ...

48 **(g) Additional Funds for Refunds.** – If at any time the amount of the refund reserve
49 shall be insufficient to make refunds required to be made, the Treasurer, in addition, may use
50 all current receipts derived from escheated or abandoned property, exclusive of earnings and
51 profits on investments of the Escheat Fund and the Escheat Account, for the purpose of making

1 such refunds; and if all such funds shall be inadequate for such refunds, the Treasurer may
2 apply to the Council of State, pursuant to the ~~Executive State~~ Budget Act, to the limit of funds
3 available from the Contingency and Emergency Fund, for a loan, without interest, to supply
4 any deficiencies, in whole or in part. No receipts derived from escheated or abandoned
5 property, other than earnings or profits on investments, shall be paid to the Authority until: (i)
6 all valid claims for refund have been paid; (ii) the reserve for refund shall equal five million
7 dollars (\$5,000,000); and (iii) the amount loaned from the Contingency and Emergency Fund
8 shall have been repaid by the Escheat Fund.

9 (h) Expenditures. – The Treasurer may expend the funds in the Escheat Fund, other
10 than funds in the Escheat Account, for the payment of claims for refunds to owners, holders
11 and claimants under G.S. 116B-4; for the payment of costs of maintenance and upkeep of
12 abandoned or escheated property; costs of preparing lists of names of owners of abandoned
13 property to be furnished to clerks of superior court; costs of notice and publication; costs of
14 appraisals; fees of persons employed pursuant to G.S. 116B-8 costs involved in determining
15 whether a decedent died without heirs; fees of persons employed pursuant to G.S. 116B-8 to
16 conduct audits; costs of a title search of real property that has escheated; and costs of auction or
17 sale under this Chapter. All other costs, including salaries of personnel, necessary to carry out
18 the duties of the Treasurer under this Chapter, shall be appropriated from the funds of the
19 Escheat Fund pursuant to the provisions of ~~Article 1, Chapter 143~~ Chapter 143C of the General
20 Statutes.

21"

22 23 **AMEND REGULATION OF UNC INSTITUTIONAL TRUST FUNDS AND FUNDS OF** 24 **UNC HEALTH CARE SYSTEM**

25 **SECTION 11.2.(a)** G.S. 116-36.1(h) reads as rewritten:

26 "(h) The Board may authorize, through the President, that the chancellors may deposit or
27 invest each institution's available trust fund cash balances in interest-bearing accounts and other
28 investments as may be authorized by the Board in the exercise of its sound discretion, without
29 regard to any statute or rule of law relating to the investment of funds by ~~fiduciaries~~ fiduciaries;
30 provided however, funds deposited and invested under this section are subject to
31 G.S. 116-36.1A."

32 **SECTION 11.2.(b)** Article 1 of Chapter 116 of the General Statutes is amended by
33 adding a new section to read:

34 **"§116-36.1A. Institutional trust fund deposits to be secured; reports of depositories.**

35 (a) The amount of funds deposited pursuant to G.S. 116-36.1 in an official depository
36 shall be adequately secured by deposit insurance, surety bonds, or investment securities of such
37 nature in such amounts and in such manner as may be prescribed by policy of the Board of
38 Governors. No security is required for the protection of funds remitted to and received by a
39 bank or trust company designated by the Board of Governors under Chapter 116D or Part 4 of
40 Article 1 of Chapter 116 of the General Statutes and acting as paying agent for the payment of
41 the principal of or interest on bonds or notes of the State.

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

49 (c) Violation of the provisions of this section shall be a Class 1 misdemeanor."

50

1 **IN-STATE TUITION FOR CERTAIN VETERANS AND OTHER INDIVIDUALS**
2 **ENTITLED TO FEDERAL EDUCATIONAL BENEFITS**

3 **SECTION 11.3.(a)** Article 14 of Chapter 116 of the General Statutes is amended
4 by adding a new section to read:

5 **"§ 116-143.3A. Waiver of 12-month residency requirement for certain veterans and other**
6 **individuals entitled to federal education benefits under 38 U.S.C. Chapter 30 or**
7 **38 U.S.C. Chapter 33.**

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

9 (1) Abode. – Has the same meaning as G.S. 116-143.3(a)(1).

10 (2) Armed Forces. – Has the same meaning as G.S. 116-143.3(a)(2).

11 (3) Veteran. – A person who served active duty for not less than 90 days in the
12 Armed Forces, the Commissioned Corps of the U.S. Public Health Service,
13 or the National Oceanic and Atmospheric Administration and who was
14 discharged or released from such service under conditions other than
15 dishonorable.

16 (b) Waiver of 12-Month Residency Requirement for Veteran. – Any veteran who
17 qualifies for admission to an institution of higher education as defined in G.S. 116-143.1(a)(3)
18 is eligible to be charged the in-State tuition rate and applicable mandatory fees for enrollment
19 without satisfying the 12-month residency requirement under G.S. 116-143.1, provided the
20 veteran meets all of the following criteria:

21 (1) The veteran applies for admission to the institution of higher education and
22 enrolls within three years of the veteran's discharge or release from the
23 Armed Forces, the Commissioned Corps of the U.S. Public Health Service,
24 or the National Oceanic and Atmospheric Administration.

25 (2) The veteran qualifies for and uses educational benefits pursuant to 38 U.S.C.
26 Chapter 30 (Montgomery G.I. Bill Active Duty Education Assistance
27 Program) or 38 U.S.C. Chapter 33 (Post-9/11 Educational Assistance), as
28 administered by the U.S. Department of Veterans Affairs.

29 (3) The veteran's abode is North Carolina.

30 (4) The veteran provides the institution of higher education at which the veteran
31 intends to enroll a letter of intent to establish residence in North Carolina.

32 (c) Eligibility of Other Individuals Entitled to Federal Educational Benefits Under 38
33 U.S.C. Chapter 30 or 38 U.S.C. Chapter 33. – Any person who is entitled to federal educational
34 benefits under 38 U.S.C. Chapter 30 or 38 U.S.C. Chapter 33 is also eligible to be charged the
35 in-State tuition rate and applicable mandatory fees for enrollment without satisfying the
36 12-month residency requirement under G.S. 116-143.1 if the person meets all of the following
37 criteria:

38 (1) The person qualifies for admission to the institution of higher education as
39 defined in G.S. 116-143.1(a)(3) and enrolls in the institution of higher
40 education within three years of the veteran's discharge or release from the
41 Armed Forces, the Commissioned Corps of the U.S. Public Health Service,
42 or the National Oceanic and Atmospheric Administration.

43 (2) The person is the recipient of federal educational benefits pursuant to 38
44 U.S.C. Chapter 30 (Montgomery G.I. Bill Active Duty Education Assistance
45 Program) or 38 U.S.C. Chapter 33 (Post-9/11 Educational Assistance), as
46 administered by the U.S. Department of Veterans Affairs.

47 (3) The person's abode is North Carolina.

48 (4) The person provides the institution of higher education at which the person
49 intends to enroll a letter of intent to establish residence in North Carolina.

50 (d) After the expiration of the three-year period following discharge or death as
51 described in 38 U.S.C. § 3679(c), any enrolled veteran entitled to federal educational benefits

1 under 38 U.S.C. Chapter 30 or 38 U.S.C. Chapter 33 and any other enrolled individual entitled
2 to federal educational benefits under 38 U.S.C. Chapter 30 or 38 U.S.C. Chapter 33 who is
3 eligible for in-State tuition under this section shall continue to be eligible for the in-State tuition
4 rate so long as the covered individual remains continuously enrolled (other than during
5 regularly scheduled breaks between courses, quarters, terms, or semesters) at that institution of
6 higher education."

7 **SECTION 11.3.(b)** G.S. 116-143.8 is repealed.

8 **SECTION 11.3.(c)** This section applies to qualifying veterans and other
9 individuals entitled to federal educational benefits under 38 U.S.C. Chapter 30 or 38 U.S.C.
10 Chapter 33 who are enrolled or who enroll in institutions of higher education for any academic
11 quarter, term, or semester that begins on or after the effective date of this act.

12 **UNC MANAGEMENT FLEXIBILITY REDUCTION**

13 **SECTION 11.4.(a)** The management flexibility reduction for The University of
14 North Carolina shall not be allocated by the Board of Governors to the constituent institutions
15 and affiliated entities using an across-the-board method but shall be done in a manner that
16 recognizes the importance of the academic missions and differences among The University of
17 North Carolina entities.

18 Before taking reductions in instructional budgets, the Board of Governors and the
19 campuses of the constituent institutions shall consider all of the following:

- 20 (1) Reducing State funding for centers and institutes, speaker series, and other
21 nonacademic activities.
- 22 (2) Faculty workload adjustments.
- 23 (3) Restructuring of research activities.
- 24 (4) Implementing cost-saving span of control measures.
- 25 (5) Reducing the number of senior and middle management positions.
- 26 (6) Eliminating low-performing, redundant, or low-enrollment programs.
- 27 (7) Using alternative funding sources.
- 28 (8) Protecting direct classroom services.

29 The Board of Governors and the campuses of the constituent institutions also shall
30 review the institutional trust funds and the special funds held by or on behalf of The University
31 of North Carolina and its constituent institutions to determine whether there are monies
32 available in those funds that can be used to assist with operating costs. In addition, the
33 campuses of the constituent institutions also shall require their faculty to have a teaching
34 workload equal to the national average in their Carnegie classification.

35 **SECTION 11.4.(b)** In allocating the management flexibility reduction, no
36 reduction in State funds shall be allocated in either fiscal year of the 2015-2017 biennium to
37 any of the following:

- 38 (1) UNC Need-Based Financial Aid.
- 39 (2) NC School of Science and Mathematics.
- 40 (3) University of North Carolina at Asheville.
- 41 (4) University of North Carolina School of the Arts.

42 **SECTION 11.4.(c)** The University of North Carolina shall report on the
43 implementation of the management flexibility reduction in subsection (a) of this section to the
44 Office of State Budget and Management and the Fiscal Research Division no later than April 1,
45 2016. This report shall identify both of the following by campus:

- 46 (1) The total number of positions eliminated by type (faculty/nonfaculty).
- 47 (2) The low-performing, redundant, and low-enrollment programs that were
48 eliminated.
- 49
- 50

51 **UNC TO FUND NORTH CAROLINA RESEARCH CAMPUS**

1 **SECTION 11.5.** Of the funds appropriated in this act to the Board of Governors of
2 The University of North Carolina, the Board of Governors shall use twenty-nine million dollars
3 (\$29,000,000) for the 2015-2016 fiscal year and twenty-nine million dollars (\$29,000,000) for
4 the 2016-2017 fiscal year to support UNC-related activities at the North Carolina Research
5 Campus at Kannapolis.

6
7 **SPECIAL EDUCATION SCHOLARSHIP CHANGES AND REEVALUATION FUNDS**

8 **SECTION 11.11.(a)** G.S. 115C-112.6 reads as rewritten:

9 **"§ 115C-112.6. Scholarships.**

10 (a) Scholarship Applications. – The Authority shall make available no later than May 1
11 annually applications to eligible students for the award of scholarships. Information about
12 scholarships and the application process shall be made available on the Authority's Web site.
13 The Authority shall give priority in awarding scholarships to eligible students who received a
14 scholarship during the previous semester. Except as otherwise provided by the Authority for
15 prior scholarship recipients, scholarships shall be awarded to eligible students in the order in
16 which the applications are received.

17 (a1) Web Site Availability. – Information about scholarships and the application process
18 shall be made available on the Authority's Web site. The Authority shall also include
19 information on the Web site notifying parents that federal regulations adopted under IDEA
20 provide that no parentally placed private school child with a disability has an individual right to
21 receive some or all of the special education and related services that the child would receive if
22 enrolled in a public school.

23 (b) Scholarship Awards. – Scholarships awarded to eligible students shall be for
24 amounts of not more than ~~threefour~~ thousand dollars ~~(\$3,000)~~(\$4,000) per semester per eligible
25 student. Eligible students awarded scholarships may not be enrolled in a public school to which
26 that student has been assigned as provided in G.S. 115C-366. Scholarships shall be awarded
27 only for tuition and for the reimbursement of tuition, special education, related services, and
28 educational technology, as provided in subsection (b1) of this section. The Authority shall
29 notify parents in writing of their eligibility to receive scholarships for costs that will be incurred
30 during the spring semester of the following year by December 1 and for costs incurred during
31 the fall semester of that year by July 1.

32 (b1) Disbursement of Scholarship Funds. – The Authority shall disburse scholarship
33 funds for tuition and for the reimbursement of costs incurred by the parent of an eligible student
34 as follows:

35 (1) Scholarship endorsement for tuition. – The Authority shall remit, at least two
36 times each school year, scholarship funds awarded to eligible students for
37 endorsement by at least one of the student's parents or guardians for tuition
38 to attend (i) a North Carolina public school other than the public school to
39 which that student has been assigned as provided in G.S. 115C-366 or (ii) a
40 nonpublic school that meets the requirements of Part 1 or Part 2 of Article 39
41 of this Chapter as identified by the Department of Administration, Division
42 of Nonpublic Education. Scholarship funds shall not be provided for tuition
43 for home schooled students. If the student is attending a nonpublic school,
44 the school must be deemed eligible by the Division of Nonpublic Education,
45 pursuant to G.S. 115C-562.4, and the school shall be subject to the
46 requirements of G.S. 115C-562.5. The parent or guardian shall restrictively
47 endorse the scholarship funds awarded to the eligible student to the school
48 for deposit into the account of the school. The parent or guardian shall not
49 designate any entity or individual associated with the school as the parent's
50 attorney-in-fact to endorse the scholarship funds but shall endorse the
51 scholarship funds in person at the site of the school. A parent's or guardian's

1 failure to comply with this section shall result in forfeiture of the scholarship
2 funds. A scholarship forfeited for failure to comply with this section shall be
3 returned to the Authority to be awarded to another student.

4 (2) Scholarship Reimbursements.—reimbursements for costs. – Scholarship
5 reimbursement for costs incurred shall be provided as follows:

6 ~~(1)~~a. Preapproval process. – Prior to the start of each school semester, the
7 parent of an eligible student may submit documentation of the
8 ~~tuition,~~ special education, related services, or educational technology
9 the parent anticipates incurring costs on in that semester for
10 preapproval by the Authority.

11 ~~(2)~~b. Reimbursement submissions. – Following the conclusion of each
12 school semester, the parent of an eligible student shall submit to the
13 Authority any receipts or other documentation approved by the
14 Authority to demonstrate the costs incurred during the semester. In
15 addition, parents shall provide documentation of the following to
16 seek reimbursement:

17 a. ~~Tuition reimbursement.~~—~~Parents may only receive~~
18 ~~reimbursement for tuition if the parent provides~~
19 ~~documentation that the student was enrolled in nonpublic~~
20 ~~school or public school for which payment of tuition is~~
21 ~~required for no less than 75 days of the semester for which~~
22 ~~the parent seeks reimbursement. Tuition reimbursement shall~~
23 ~~not be provided for home schooled students.~~

24 ~~b.1.~~ Special education reimbursement. – Parents may only receive
25 reimbursement for special education if the parent provides
26 documentation that the student received special education for
27 no less than 75 days of the semester for which the parent
28 seeks reimbursement. Special education reimbursement shall
29 not be provided for special education instruction provided to
30 a home schooled student by a member of the household of a
31 home school, as defined in G.S. 115C-563(a).

32 ~~e.2.~~ Related services reimbursement. – Parents may only receive
33 reimbursement for related services if the parent provides
34 documentation that the student also received special
35 education for no less than 75 days of the semester for which
36 the parent seeks reimbursement for the related services.
37 Related services reimbursement shall not be provided for
38 related services provided to a home schooled student by a
39 member of the household of a home school, as defined in
40 G.S. 115C-563(a).

41 ~~d.3.~~ Educational technology reimbursement. – Parents may only
42 receive reimbursement for educational technology if the
43 parent provides documentation that the student used the
44 educational technology for no less than 75 days of the
45 semester for which the parent seeks reimbursement.

46 ~~(3)~~c. Scholarship award. – The Authority shall award a scholarship in the
47 amount of costs demonstrated by the parent up to the maximum
48 amount. If the costs incurred by the parent do not meet the maximum
49 amount, the Authority shall use the remainder of those funds for the
50 award of scholarships to eligible students for the following semester.

1 The Authority shall award scholarships to the parents of eligible
2 students at least semiannually.

3 (c) Student Reevaluation. – After an eligible student's initial receipt of a scholarship,
4 the Authority shall ensure that the student is reevaluated at least every three years by the local
5 educational agency in order to verify that the student continues to be a child with a disability.

6 (d) Rule Making. – The Authority shall establish rules and regulations for the
7 administration and awarding of scholarships. The Authority shall adopt rules providing for pro
8 rata return of funds if a student withdraws prior to the end of the semester from a school to
9 which scholarship funds have been remitted. The Authority shall annually develop a list of
10 educational technology for which scholarships may be used and shall provide scholarship
11 recipients with information about the list.

12 (e) Public Records Exception. – Scholarship applications and personally identifiable
13 information related to eligible students receiving scholarships shall not be a public record under
14 Chapter 132 of the General Statutes. For the purposes of this section, personally identifiable
15 information means any information directly related to a student or members of a student's
16 household, including the name, birthdate, address, Social Security number, telephone number,
17 e-mail address, financial information, or any other information or identification number that
18 would provide information about a specific student or members of a specific student's
19 household."

20 **SECTION 11.11.(b)** G.S. 115C-112.9 reads as rewritten:

21 "**§ 115C-112.9. Duties of State Board of Education-agencies.**

22 (a) The State Board, as part of its duty to monitor all local educational agencies to
23 determine compliance with this Article and IDEA as provided in G.S. 115C-107.4, shall ensure
24 that local educational agencies do the following:

25 (1) Conduct evaluations requested by a child's parent or guardian of suspected
26 children with disabilities, as defined in G.S. 115C-107.3, in a timely manner
27 as required by IDEA.

28 (2) Provide reevaluations to identified children with disabilities receiving
29 scholarships as provided in Part 1H of this Article at the request of the parent
30 or guardian to ensure compliance with G.S. 115C-112.6(c).

31 (b) The Authority shall analyze, in conjunction with the Department of Public
32 Instruction, past trends in scholarship data on an annual basis to ensure that the amount of
33 funds transferred each fiscal year by the Authority to the Department for reevaluations by local
34 school administrative units of eligible students under G.S. 115C-112.6(c) are sufficient and
35 based on actual annual cost requirements."

36 **SECTION 11.11.(c)** The Authority shall adopt rules within 60 days of the date this
37 act becomes law providing for pro rata return of funds if a student withdraws prior to the end of
38 the semester from a school to which scholarship funds have been remitted.

39 **SECTION 11.11.(d)** This section applies to scholarships awarded for the
40 2015-2016 school year and each subsequent school year.

41
42 **INTERNSHIPS AND CAREER-BASED OPPORTUNITIES FOR STUDENTS**
43 **ATTENDING HISTORICALLY BLACK COLLEGES AND UNIVERSITIES**
44 **(HBCU)**

45 **SECTION 11.12.(a)** The internship program created pursuant to S.L. 2014-100 to
46 provide internships and career-based opportunities for students attending Historically Black
47 Colleges and Universities may be offered to four or more HBCUs in the discretion of the Board
48 of Governors of The University of North Carolina. Further, there is no requirement that
49 Elizabeth City State University be a permanent participant in the internship program. The
50 internship program shall be administered as provided by subsection (b) of this section.

1 **SECTION 11.12.(b)** The Board of Governors shall conduct a competitive process
2 to select institutions of higher education that are Historically Black Colleges and Universities to
3 participate in the internship program which links 60 students attending Historically Black
4 Colleges and Universities with North Carolina-based companies. The Board of Governors shall
5 determine the number of institutions that may participate in the program; however, at least two
6 of the institutions shall be private institutions. Funds appropriated by this act for this internship
7 program shall be allocated only to constituent institutions of The University of North Carolina
8 that are designated as an HBCU and private colleges and universities located in North Carolina
9 that are designated as an HBCU.

10 **SECTION 11.12.(c)** Of the funds appropriated by this act for the support of the
11 internship program, The University of North Carolina may use up to five percent (5%) for costs
12 associated with administering this program.

13 **SECTION 11.12.(d)** This section applies to the 2015-2016 fiscal year and each
14 subsequent fiscal year.

15 16 **ELIZABETH CITY STATE UNIVERSITY BUDGET STABILIZATION FUNDS** 17 **REPORT**

18 **SECTION 11.13.** The President of The University of North Carolina shall report
19 each quarter of the 2015-2016 fiscal year to the Office of State Budget and Management and
20 the Fiscal Research Division of the General Assembly on the status of budget stabilization
21 funds appropriated to Elizabeth City State University by this act for the purpose of enhancing
22 technology related to enrollment and recruitment of students, campus access and safety, and
23 human resources management. The reports shall provide detailed descriptions of the scope of
24 work that has been completed to date, anticipated activities for the next quarter, and a plan with
25 time line to complete the full scope of work. The reports shall also include evidence of
26 improved services and outcomes achieved from improvements implemented using these funds.
27 The first quarterly report required by this section shall be made no later than October 1, 2015.

28 29 **UNC ENROLLMENT GROWTH REPORT**

30 **SECTION 11.14.** G.S. 116-30.7 reads as rewritten:

31 **"§ 116-30.7. Biennial projection of enrollment growth for The University of North**
32 **Carolina.**

33 By ~~October~~ December 15 of each even-numbered year, the General Administration of The
34 University of North Carolina shall provide to the Joint Education Legislative Oversight
35 Committee and to the Office of State Budget and Management a projection of the total student
36 enrollment in The University of North Carolina that is anticipated for the next biennium. The
37 enrollment projection shall be divided into the following categories and shall include the
38 projected growth for each year of the biennium in each category at each of the constituent
39 institutions: undergraduate students, graduate students (students earning master's and doctoral
40 degrees), first professional students, and any other categories deemed appropriate by General
41 Administration. The projection shall also distinguish between on-campus and distance
42 education students. The projections shall be considered by the Director of the Budget when
43 determining the amount the Director proposes to appropriate to The University of North
44 Carolina in the Recommended State Budget submitted pursuant to G.S. 143C-3-5(b)."

45 46 **EARLY COLLEGE GRADUATES/UNC ADMISSION POLICY**

47 **SECTION 11.16.(a)** The Board of Governors of The University of North Carolina
48 shall adopt a policy to require each constituent institution to offer to any student who graduated
49 from a cooperative innovative high school program with an associate degree and who applies
50 for admission to the constituent institution the option of being considered for admission as a
51 freshman or as a transfer student. The constituent institution shall also provide written

1 information to the student regarding the consequences that accompany each option and any
2 other relevant information that may be helpful to the student when considering which option to
3 select.

4 **SECTION 11.16.(b)** Beginning November 1, 2016, the Board of Governors shall
5 report annually to the Joint Legislative Education Oversight Committee regarding the number
6 of students who graduated from a cooperative innovative high school program with an
7 associate degree and which option was chosen by those students when applying for admission
8 to a constituent institution.

9 **SECTION 11.16.(c)** This section applies to the 2016-2017 academic year and each
10 subsequent academic year.

11 12 **SEAA FUNDS FOR ADMINISTRATION OF SPECIAL EDUCATION SCHOLARSHIP** 13 **GRANT PROGRAM**

14 **SECTION 11.18.** Section 5(b) of S.L. 2013-364, as amended by Section 3.2 of
15 S.L. 2013-363, reads as rewritten:

16 "**SECTION 5.(b)** Of the funds allocated to NCSEAA to be used for the award of
17 scholarship grants to eligible students under subsection (a) of this section, for fiscal year
18 2013-2014, NCSEAA may retain up to two hundred thousand dollars (\$200,000) for
19 administrative costs associated with the scholarship grant program. For fiscal year ~~2014-2015~~
20 2015-2016 and subsequent years, NCSEAA may retain up to ~~two percent (2%)~~ four percent
21 (4%) annually for administrative costs associated with the scholarship grant program."

22 23 **WESTERN GOVERNORS UNIVERSITY CHALLENGE GRANT**

24 **SECTION 11.20.** Of the funds appropriated in this act to the Board of Governors
25 of The University of North Carolina, the sum of two million dollars (\$2,000,000) in
26 nonrecurring funds for the 2015-2016 fiscal year shall be used as a challenge grant to Western
27 Governors University to raise the sum of five million dollars (\$5,000,000) in private funds for
28 the 2015-2016 fiscal year to establish a North Carolina campus. The allocation of two million
29 dollars (\$2,000,000) under this section is contingent upon receipt by Western Governors
30 University of five million dollars (\$5,000,000) in private funds for the purpose of establishing a
31 North Carolina campus.

32 33 **HUNT INSTITUTE/NO GENERAL FUNDS**

34 **SECTION 11.21.** Notwithstanding any other provision of law, no monies from the
35 General Fund shall be used for the support of The Hunt Institute which is an affiliate of the
36 University of North Carolina at Chapel Hill.

37 38 **PART XII. DEPARTMENT OF HEALTH AND HUMAN SERVICES**

39 40 **SUBPART XII-A. CENTRAL MANAGEMENT AND SUPPORT**

41 42 **FUNDING FOR PROGRAMS TO IMPROVE CHILDREN'S HEALTH/ESTABLISH** 43 **COMPETITIVE GRANTS PROCESS**

44 **SECTION 12A.2.(a)** Findings. – The General Assembly finds that America spends
45 twice as much on health care as any other nation, yet Americans are not the healthiest people in
46 the world. Research indicates that spending on health care to treat people may actually come at
47 the expense of investing in public health programs meant to keep people from getting sick in
48 the first place. The General Assembly further finds that infant mortality rates are an indicator of
49 a state's overall health status. North Carolina currently ranks fortieth in the nation on infant
50 mortality. Implementing statewide policies to invest in evidence-based programs that are
51 scientifically proven to lower infant mortality rates, and improve birth outcomes and the health

1 of children ages birth to five, will assure that future rankings for North Carolina are among the
2 best in the nation.

3 **SECTION 12A.2.(b)** Designation of Lead Agency. – The Secretary of the North
4 Carolina Department of Health and Human Services (Secretary) shall designate a lead agency
5 that is responsible for doing all of the following:

- 6 (1) Assuming responsibility for controlling all funding and contracts designed to
7 (i) improve North Carolina's birth outcomes, (ii) improve the overall health
8 status of children in this State from ages birth to five, and (iii) lower this
9 State's infant mortality rates.
- 10 (2) Working in consultation with the University of North Carolina Gillings
11 School of Global Public Health to develop a statewide, comprehensive plan
12 to accomplish the goals described in subdivision (1) of this subsection.
- 13 (3) Conducting a justification review of all programs and activities funded with
14 State appropriations described in subsection (c) of this section.

15 **SECTION 12A.2.(c)** Nonrecurring Allocations. – For the 2015-2016 fiscal year
16 only, the Department of Health and Human Services shall allocate the following designated
17 amounts for the following programs on a nonrecurring basis:

- | | |
|---|----------------|
| 18 (1) Maternal and Child Health Contracts | \$2,472,094 NR |
| 19 (2) High-Risk Maternity Clinic | 375,000 NR |
| 20 (3) Healthy Beginnings (Two Contracts) | 396,025 NR |
| 21 (4) Pregnancy Care Case Management | 300,901 NR |
| 22 (5) Maternal, Infant, and Early Childhood Home Visiting | 425,643 NR |
| 23 (6) Triple P-Positive Parenting Program | 828,233 NR |
| 24 (7) NC Perinatal and Maternal Substance Abuse Initiative | 2,729,316 NR |
| 25 (8) Perinatal Substance Abuse Specialist | 45,000 NR |

26 **SECTION 12A.2.(d)** Statewide Proposal and Justification Review. – By March 1,
27 2016, the Secretary shall submit the statewide proposal developed pursuant to subsection (b) of
28 this section to the Joint Legislative Oversight Committee on Health and Human Services and
29 the Fiscal Research Division for consideration during the 2016 Regular Session of the 2015
30 General Assembly. The statewide proposal shall include at least all of the following:

- 31 (1) Details of the statewide plan and identification of the lead agency
32 responsible for assuring the success of the plan.
- 33 (2) Justification for continuing, reducing, or eliminating funding for the
34 programs and activities that receive nonrecurring allocations for the
35 2015-2016 fiscal year.
- 36 (3) Recommendations for reallocation of funding from programs and activities
37 that are not evidence-based and that are not producing positive returns on
38 investment consistent with the goals described in subdivision (1) of
39 subsection (b) of this section.
- 40 (4) Recommendations for investments in new initiatives that accomplish the
41 goals described in subdivision (1) of subsection (b) of this section.

42 **SECTION 12A.2.(e)** Establishment of Competitive Grants Process for Local
43 Health Departments. – It is the intent of the General Assembly that, beginning in the 2016-2017
44 fiscal year, the Department of Health and Human Services implement a competitive grants
45 process for local health departments based on a county's current health status and the county's
46 detailed proposal to invest in evidence-based programs to achieve the goals described in
47 subdivision (1) of subsection (b) of this section. To that end, the Department shall develop a
48 plan that establishes a competitive grants process to be administered by the Division of Central
49 Management and Support. The Department shall develop a plan that, at a minimum, includes
50 each of the following components:

- 1 (1) A request for application (RFA) process to allow local health departments to
2 apply for and receive State funds on a competitive basis.
- 3 (2) A requirement that the Secretary prioritize grant awards to those local health
4 departments that are able to leverage non-State funds in addition to the grant
5 award.
- 6 (3) A process that awards grants to local health departments dedicated to
7 providing services on a countywide basis and that supports the goals
8 described in subdivision (1) of subsection (b) of this section.
- 9 (4) Ensures that funds received by the Department to implement the plan
10 supplement and do not supplant existing funds for health and wellness
11 programs and initiatives.

12 **SECTION 12A.2.(f)** Funds for Competitive Grants Process. – Of the funds
13 appropriated in this act to the Department of Health and Human Services, Division of Public
14 Health, the sum of two million five hundred thousand dollars (\$2,500,000) in recurring funds
15 for each year of the 2015-2017 fiscal biennium shall be used to establish the competitive grants
16 process for local health departments described in subsection (e) of this section. The Department
17 shall not use more than five percent (5%) of these funds for administrative purposes.

18 **SECTION 12A.2.(g)** Evaluation Protocol for Future Program Funding. – The
19 Department shall work with the University of North Carolina Gillings School of Global Public
20 Health (School of Global Public Health) to establish an evaluation protocol for determining
21 program effectiveness and future funding requirements at the local level. By April 1, 2016, the
22 Department, in consultation with the School of Global Public Health, shall submit a report to
23 the Joint Legislative Oversight Committee on Health and Human Services on the request for
24 application process to allow local health departments to apply for and receive State funds on a
25 competitive basis. The report shall include the counties awarded, the amount of the award, the
26 types of programs to be funded, and the evaluation process to be used in determining county
27 performance.

28 **HEALTH INFORMATION TECHNOLOGY**

29 **SECTION 12A.4.(a)** The Department of Health and Human Services
30 (Department), in cooperation with the State Chief Information Officer (State CIO), shall
31 coordinate health information technology (HIT) policies and programs within the State of
32 North Carolina. The goal of the DHHS CIO in coordinating State HIT policy and programs
33 shall be to avoid duplication of efforts and to ensure that each State agency, public entity, and
34 private entity that undertakes health information technology activities does so within the area of
35 its greatest expertise and technical capability and in a manner that supports coordinated State
36 and national goals, which shall include at least all of the following:

- 38 (1) Ensuring that patient health information is secure and protected, in
39 accordance with applicable law.
- 40 (2) Improving health care quality, reducing medical errors, reducing health
41 disparities, and advancing the delivery of patient-centered medical care.
- 42 (3) Providing appropriate information to guide medical decisions at the time and
43 place of care.
- 44 (4) Ensuring meaningful public input into HIT infrastructure development.
- 45 (5) Improving the coordination of information among hospitals, laboratories,
46 physicians' offices, and other entities through an effective infrastructure for
47 the secure and authorized exchange of health care information.
- 48 (6) Improving public health services and facilitating early identification and
49 rapid response to public health threats and emergencies, including
50 bioterrorist events and infectious disease outbreaks.
- 51 (7) Facilitating health and clinical research.

1 (8) Promoting early detection, prevention, and management of chronic diseases.
2 **SECTION 12A.4.(b)** The Department, in cooperation with the State CIO, shall
3 establish and direct an HIT management structure that is efficient and transparent and that is
4 compatible with the Office of the National Health Coordinator for Information Technology
5 (National Coordinator) governance mechanism. The HIT management structure shall be
6 responsible for all of the following:

- 7 (1) Developing a State plan for implementing and ensuring compliance with
8 national HIT standards and for the most efficient, effective, and widespread
9 adoption of HIT.
- 10 (2) Ensuring that (i) specific populations are effectively integrated into the State
11 plan, including aging populations, populations requiring mental health
12 services, and populations utilizing the public health system, and (ii) unserved
13 and underserved populations receive priority consideration for HIT support.
- 14 (3) Identifying all HIT stakeholders and soliciting feedback and participation
15 from each stakeholder in the development of the State plan.
- 16 (4) Ensuring that existing HIT capabilities are considered and incorporated into
17 the State plan.
- 18 (5) Identifying and eliminating conflicting HIT efforts where necessary.
- 19 (6) Identifying available resources for the implementation, operation, and
20 maintenance of health information technology, including identifying
21 resources and available opportunities for North Carolina institutions of
22 higher education.
- 23 (7) Ensuring that potential State plan participants are aware of HIT policies and
24 programs and the opportunity for improved health information technology.
- 25 (8) Monitoring HIT efforts and initiatives in other states and replicating
26 successful efforts and initiatives in North Carolina.
- 27 (9) Monitoring the development of the National Coordinator's strategic plan and
28 ensuring that all stakeholders are aware of and in compliance with its
29 requirements.
- 30 (10) Monitoring the progress and recommendations of the HIT Policy and
31 Standards Committee and ensuring that all stakeholders remain informed of
32 the Committee's recommendations.
- 33 (11) Monitoring all studies and reports provided to the United States Congress
34 and reporting to the Joint Legislative Oversight Committee on Information
35 Technology and the Fiscal Research Division on the impact of report
36 recommendations on State efforts to implement coordinated HIT.

37 **SECTION 12A.4.(c)** By no later than January 15, 2016, the Department shall
38 provide a written report on the status of HIT efforts to the Joint Legislative Oversight
39 Committees on Health and Human Services and Information Technology and to the Fiscal
40 Research Division. The report shall be comprehensive and shall include all of the following:

- 41 (1) Current status of federal HIT initiatives.
- 42 (2) Current status of State HIT efforts and initiatives among both public and
43 private entities.
- 44 (3) Other State information technology initiatives with potential applicability to
45 State HIT efforts.
- 46 (4) Efforts to ensure coordination and avoid duplication of HIT efforts within
47 the State.
- 48 (5) A breakdown of current public and private funding sources and dollar
49 amounts for State HIT initiatives.
- 50 (6) Efforts by the DHHS CIO to coordinate HIT initiatives within the State and
51 any obstacles or impediments to coordination.

- 1 (7) HIT research efforts being conducted within the State and sources of funding
2 for research efforts.
- 3 (8) Opportunities for stakeholders to participate in HIT funding and other efforts
4 and initiatives during the next quarter.
- 5 (9) Issues associated with the implementation of HIT in North Carolina and
6 recommended solutions to these issues.
- 7

8 **FUNDS FOR OVERSIGHT AND ADMINISTRATION OF STATEWIDE HEALTH**
9 **INFORMATION EXCHANGE NETWORK**

10 **SECTION 12A.5.(a)** It is the intent of the General Assembly to do all of the
11 following with respect to health information exchange:

- 12 (1) Establish a successor HIE Network to which (i) all Medicaid providers shall
13 be connected by July 1, 2017, and (ii) all other entities that receive State
14 funds for the provision of health services shall be connected by January 1,
15 2018.
- 16 (2) Establish (i) a State-controlled Health Information Exchange Authority to
17 oversee and administer the successor HIE Network and (ii) a Health
18 Information Exchange Advisory Board to provide consultation to the
19 Authority on matters pertaining to administration and operation of the HIE
20 Network and on statewide health information exchange, generally.
- 21 (3) Have the successor HIE Network gradually become and remain one hundred
22 percent (100%) receipt-supported by establishing reasonable participation
23 fees approved by the General Assembly and by drawing down available
24 matching funds whenever possible.

25 **SECTION 12A.5.(b)** In order to achieve the objectives described in subsection (a)
26 of this section, funds appropriated in this act to the Department of Health and Human Services,
27 Division of Central Management and Support, for the 2015-2016 fiscal year and for the
28 2016-2017 fiscal year to continue efforts toward the implementation of a statewide health
29 information exchange network shall be transferred to the Department of Information
30 Technology. By 30 days after the effective date of this section, the Secretary of the Department
31 of Health and Human Services and the State Chief Information Officer (State CIO) shall enter
32 into a written memorandum of understanding pursuant to which the State CIO will have sole
33 authority to direct the expenditure of these funds until (i) the North Carolina Health
34 Information Exchange Authority (Authority) is established and the State CIO has appointed an
35 Authority Director and (ii) the North Carolina Health Information Exchange Advisory Board
36 (Advisory Board) is established with members appointed pursuant to Article 29B of Chapter 90
37 of the General Statutes, as enacted by subsection (d) of this section. The State CIO shall use
38 these transferred funds to accomplish the following:

- 39 (1) Beginning immediately upon receipt of the transferred funds, facilitate the
40 following:
- 41 a. Establishment of the successor HIE Network described in subsection
42 (a) of this section.
- 43 b. Termination or assignment to the Authority by December 31, 2015,
44 of any contracts pertaining to the HIE Network established under
45 Article 29A of Chapter 90 of the General Statutes (i) between the
46 State and the NC HIE and (ii) between the NC HIE and any third
47 parties.
- 48 (2) Fund the monthly operational expenses incurred or encumbered by the NC
49 HIE from July 1, 2015, until December 31, 2015. Notwithstanding any other
50 provision of law to the contrary, the total amount of monthly operating
51 expenses paid for with these funds shall not exceed one hundred

1 seventy-seven thousand dollars (\$177,000) per month, or a total of one
2 million sixty-two thousand dollars (\$1,062,000) for the six-month period
3 commencing July 1, 2015, and ending December 31, 2015. The State CIO
4 shall terminate payments for these monthly operational expenses upon the
5 earlier of December 31, 2015, or upon the termination or assignment to the
6 Authority of all contracts pertaining to the HIE Network established under
7 Article 29A of Chapter 90 of the General Statutes (i) between the State and
8 the NC HIE and (ii) between the NC HIE and any third parties.

9 The State CIO is encouraged to explore all available opportunities for the State to receive
10 federal grant funds and federal matching funds for health information exchange.

11 **SECTION 12A.5.(c)** Once the Authority Director has been hired and the Advisory
12 Board has been established with members appointed pursuant to Article 29B of Chapter 90 of
13 the General Statutes, as enacted by subsection (d) of this section, the Authority shall use these
14 funds to do the following:

- 15 (1) Fund the operational expenses of the Authority and the Advisory Board.
- 16 (2) Establish, oversee, administer, and provide ongoing support of a successor
17 HIE Network to the HIE Network established under Article 29A of Chapter
18 90 of the General Statutes.
- 19 (3) Enter into any contracts necessary for the establishment, administration, and
20 operation of the successor HIE Network.
- 21 (4) Facilitate the termination or assignment to the Authority by December 31,
22 2015, of any contracts pertaining to the HIE Network established under
23 Article 29A of Chapter 90 of the General Statutes (i) between the State and
24 the NC HIE and (ii) between the NC HIE and any third parties.
- 25 (5) Fund the monthly operational expenses incurred or encumbered by the NC
26 HIE from July 1, 2015, until December 31, 2015. Notwithstanding any other
27 provision of law to the contrary, the total amount of monthly operating
28 expenses paid for with these funds shall not exceed one hundred
29 seventy-seven thousand dollars (\$177,000) per month, or a total of one
30 million sixty-two thousand dollars (\$1,062,000) for the six-month period
31 commencing July 1, 2015, and ending December 31, 2015. The Authority
32 shall terminate payments for these monthly operational expenses upon the
33 earlier of December 31, 2015, or upon the termination or assignment to the
34 Authority of all contracts pertaining to the HIE Network established under
35 Article 29A of Chapter 90 of the General Statutes (i) between the State and
36 the NC HIE and (ii) between the NC HIE and any third parties.

37 The Authority is encouraged to explore all available opportunities for the State to receive
38 federal grant funds and federal matching funds for health information exchange.

39 **SECTION 12A.5.(d)** Chapter 90 of the General Statutes is amended by adding a
40 new Article to read:

41 "Article 29B.

42 "Statewide Health Information Exchange Act.

43 **"§ 90-414.1. Title.**

44 This act shall be known and may be cited as the "Statewide Health Information Exchange
45 Act."

46 **"§ 90-414.2. Purpose.**

47 This Article is intended to improve the quality of health care delivery within this State by
48 facilitating and regulating the use of a voluntary, statewide health information exchange
49 network for the secure electronic transmission of individually identifiable health information
50 among health care providers, health plans, and health care clearinghouses in a manner that is

1 consistent with the Health Insurance Portability and Accountability Act, Privacy Rule and
2 Security Rule, 45 C.F.R. §§ 160, 164.

3 **"§ 90-414.3. Definitions.**

4 The following definitions apply in this Article:

- 5 (1) Business associate. – As defined in 45 C.F.R. § 160.103.
- 6 (2) Business associate contract. – The documentation required by 45 C.F.R. §
7 164.502(e)(2) that meets the applicable requirements of 45 C.F.R. §
8 164.504(e).
- 9 (3) Covered entity. – Any entity described in 45 C.F.R. § 160.103 or any other
10 facility or practitioner licensed by the State to provide health care services.
- 11 (4) Disclose or disclosure. – The release, transfer, provision of access to, or
12 divulging in any other manner an individual's protected health information
13 through the HIE Network.
- 14 (5) Emergency medical condition. – A medical condition manifesting itself by
15 acute symptoms of sufficient severity, including severe pain, such that the
16 absence of immediate medical attention could reasonably be expected to
17 result in (i) placing an individual's health in serious jeopardy, (ii) serious
18 impairment of an individual's bodily functions, or (iii) serious dysfunction of
19 any bodily organ or part of an individual.
- 20 (6) GDAC. – The North Carolina Government Data Analytics Center.
- 21 (7) Health Benefits Authority. – The Authority established under Article 14 of
22 Chapter 143B of the General Statutes to operate the Medicaid and NC
23 Health Choice programs.
- 24 (8) HIE Network. – The voluntary, statewide health information exchange
25 network overseen and administered by the Authority.
- 26 (9) HIPAA. – The Health Insurance Portability and Accountability Act of 1996,
27 P.L. 104-191, as amended.
- 28 (10) Individual. – As defined in 45 C.F.R. § 160.103.
- 29 (11) North Carolina Health Information Exchange Authority or Authority. – The
30 entity established pursuant to G.S. 90-414.5.
- 31 (12) North Carolina Health Information Exchange Advisory Board or Advisory
32 Board. – The Advisory Board established under G.S. 90-414.6.
- 33 (13) Opt out. – An individual's affirmative decision to disallow his or her
34 protected health information maintained by or on behalf of one or more
35 specific covered entities from being disclosed to other covered entities
36 through the HIE Network.
- 37 (14) Protected health information. – As defined in 45 C.F.R. § 160.103.
- 38 (15) Public health purposes. – The public health activities and purposes described
39 in 45 C.F.R. § 164.512(b).
- 40 (16) Qualified organization. – An entity designated by the Authority to contract
41 with covered entities on behalf of the Authority to facilitate the participation
42 of such covered entities in the HIE Network.
- 43 (17) Research purposes. – Research that meets the standard described in 45
44 C.F.R. § 164.512(i).
- 45 (18) State CIO. – The State Chief Information Officer.

46 **"§ 90-414.4. Required participation in HIE Network for some providers.**

47 (a) The General Assembly makes the following findings:

- 48 (1) That controlling escalating health care costs of the Medicaid program and
49 other State-funded health services is of significant importance to the State,
50 its taxpayers, its Medicaid recipients, and other recipients of State-funded
51 health services.

1 (2) That the Health Benefits Authority needs timely access to claims and clinical
2 information in order to assess performance, improve health care outcomes,
3 pinpoint medical expense trends, identify beneficiary health risks, and
4 evaluate how the State is spending money on Medicaid and other
5 State-funded health services.

6 (3) That making this clinical information available through the HIE Network
7 will improve care coordination within and across health systems, increase
8 care quality, enable more effective population health management, reduce
9 duplication of medical services, augment syndromic surveillance, allow
10 more accurate measurement of care services and outcomes, increase strategic
11 knowledge about the health of the population, and facilitate health care cost
12 containment.

13 (b) As a condition of receiving State funds, including Medicaid funds, the following
14 entities shall connect to the HIE Network and submit individual patient demographic and
15 clinical data on services paid for with State funds, including Medicaid funds, based on the
16 findings set forth in subsection (a) of this section and notwithstanding the voluntary nature of
17 the HIE Network under G.S. 90-414.2:

18 (1) Each hospital, as defined in G.S. 131E-76(3), that has an electronic health
19 record system.

20 (2) Each Medicaid provider.

21 (3) Each provider that receives State funds for the provision of health services.

22 (c) The Authority shall give the Health Benefits Authority real-time access to data and
23 information disclosed through the HIE Network. At the request of the Director of the Fiscal
24 Research, Bill Drafting, Research, or Program Evaluation Divisions of the General Assembly
25 for data and information disclosed through the HIE Network or for a consolidation or analysis
26 of the data and information disclosed through the HIE Network, the Authority shall provide the
27 professional staff of these Divisions with data and information responsive to the Director's
28 request. Prior to providing the General Assembly's staff with any data or information disclosed
29 through the HIE Network or with any compilation or analysis of data or information disclosed
30 through the HIE Network, the Authority shall redact any personal identifying information in a
31 manner consistent with the standards specified for de-identification of health information under
32 the HIPAA Privacy Rule, 45 C.F.R. § 164.15, as amended.

33 **"§ 90-414.4A. State ownership of data disclosed through HIE Network.**

34 Any data disclosed through the HIE Network pursuant to G.S. 90-414.4 or any other
35 provision of this Article shall be and will remain the sole property of the State. Any data or
36 product derived from the data disclosed to the HIE Network pursuant to G.S. 90-414.4 or any
37 other provision of this Article, including a consolidation or analysis of the data, shall be and
38 will remain the sole property of the State. The Authority shall not allow proprietary information
39 it receives pursuant to G.S. 90-414.4 or any other provision of this Article to be used by any
40 person or entity for commercial purposes.

41 **"§ 90-414.5. North Carolina Health Information Exchange Authority.**

42 (a) Creation. – There is hereby established the North Carolina Health Information
43 Exchange Authority to oversee and administer the HIE Network in accordance with this
44 Article. The Authority shall be located within the Department of Information Technology and
45 shall be under the supervision, direction, and control of the State CIO. The State CIO shall
46 employ an Authority Director and may delegate to the Authority Director all powers and duties
47 associated with the daily operation of the Authority, its staff, and the performance of the
48 powers and duties set forth in subsection (b) of this section. In making this delegation,
49 however, the State CIO maintains the responsibility for the performance of these powers and
50 duties.

51 (b) Powers and Duties. – The Authority has the following powers and duties:

- 1 (1) Oversee and administer the HIE Network in a manner that ensures all of the
2 following:
 - 3 a. Compliance with this Article.
 - 4 b. Compliance with HIPAA and any rules adopted under HIPAA,
5 including the Privacy Rule and Security Rule.
 - 6 c. Compliance with the terms of any business associate contract the
7 Authority or qualified organization enters into with a covered entity
8 participating in the HIE Network.
 - 9 d. Notice to the patient by the provider on the initial visit about the HIE
10 Network, including information and education about the right of
11 individuals on a continuing basis to opt out or rescind a decision to
12 opt out.
 - 13 e. Opportunity for all individuals to exercise on a continuing basis the
14 right to opt out or rescind a decision to opt out.
 - 15 f. Nondiscriminatory treatment by covered entities of individuals who
16 exercise the right to opt out.
- 17 (2) Employ staff necessary to carry out the provisions of this Article and
18 determine the compensation, duties, and other terms and conditions of
19 employment of hired staff.
- 20 (3) Enter into contracts pertaining to the oversight and administration of the HIE
21 Network, including contracts of a consulting or advisory nature.
22 G.S. 143-64.20 does not apply to this subdivision.
- 23 (4) Establish fees approved by the General Assembly for participation in the
24 HIE Network.
- 25 (5) Following consultation with the Advisory Board, develop and enter into
26 written participation agreements with covered entities that utilize the HIE
27 Network. The participation agreements shall specify the terms and
28 conditions governing participation in the HIE Network. The agreement shall
29 also require compliance with policies developed by the Authority pursuant to
30 this Article or pursuant to applicable laws of the state of residence for
31 entities located outside of North Carolina. In lieu of entering into a
32 participation agreement directly with covered entities, the Authority may
33 enter into participation agreements with qualified organizations, which in
34 turn enter into participation agreements with covered entities.
- 35 (6) Add, remove, disclose, and access protected health information through the
36 HIE Network in accordance with this Article.
- 37 (7) Following consultation with the Advisory Board, enter into a business
38 associate contract with each of the covered entities participating in the HIE
39 Network. In lieu of entering into a business associate contract directly with
40 covered entities, the Authority may enter into business associate contracts
41 with qualified organizations, which in turn may enter into business associate
42 contracts with covered entities.
- 43 (8) Following consultation with the Advisory Board, grant user rights to the HIE
44 Network to business associates of covered entities participating in the HIE
45 Network (i) at the request of the covered entities and (ii) at the discretion of
46 the Authority upon consideration of the business associates' legitimate need
47 for utilizing the HIE Network and privacy and security concerns.
- 48 (9) Facilitate and promote use of the HIE Network by covered entities.
- 49 (10) Periodically monitor compliance with this Article by covered entities
50 participating in the HIE Network.

- 1 (11) Collect clinical health data from all Medicaid providers and other providers
2 that receive State funds for the provision of health services in order to ensure
3 the efficient delivery of Medicaid and other health services and to improve
4 patient outcomes and measure performance.
- 5 (12) Collaborate with the State CIO to ensure that resources available through the
6 GDAC are properly leveraged, assigned, or deployed to support the work of
7 the Authority. The duty to collaborate under this subdivision includes
8 collaboration on data hosting and development, implementation, operation,
9 and maintenance of the HIE Network.
- 10 (13) Initiate or direct expansion of existing public-private partnerships within the
11 GDAC as necessary to meet the requirements, duties, and obligations of the
12 Authority. Notwithstanding any other provision of law and subject to the
13 availability of funds, the State CIO, at the request of the Authority, shall
14 assist and facilitate expansion of existing contracts related to the HIE
15 Network, provided that such request is made in writing by the Authority to
16 the State CIO with reference to specific requirements set forth in this Article.
- 17 (14) In consultation with the Advisory Board, develop a strategic plan for
18 achieving statewide participation in the HIE Network by all hospitals and
19 health care providers licensed in this State.
- 20 (15) In consultation with the Advisory Board, define the following with respect to
21 operation of the HIE Network:
- 22 a. Business policy.
- 23 b. Protocols for data integrity, data sharing, data security, HIPAA
24 compliance, and business intelligence as defined in
25 G.S. 143B-426.38A. To the extent permitted by HIPAA, protocols
26 for data sharing shall allow for the disclosure of data for academic
27 research.
- 28 c. Qualitative and quantitative performance measures.
- 29 d. An operational budget and assumptions.
- 30 (16) Annually report to the Joint Legislative Oversight Committees on the Health
31 Benefits Authority and Information Technology on the following:
- 32 a. The operation of the HIE Network.
- 33 b. Any efforts or progress in expanding participation in the HIE
34 Network.
- 35 c. Health care trends based on information disclosed through the HIE
36 Network.

37 **"§ 90-414.6. North Carolina Health Information Exchange Advisory Board.**

38 (a) Creation and Membership. – There is hereby established the North Carolina Health
39 Information Exchange Advisory Board within the Department of Information Technology. The
40 Advisory Board shall consist of the following nine members:

- 41 (1) The following three members appointed by the President Pro Tempore of the
42 Senate:
- 43 a. A licensed physician in good standing and actively practicing in this
44 State.
- 45 b. A patient representative.
- 46 c. An individual with technical expertise in health data analytics.
- 47 (2) The following three members appointed by the Speaker of the House of
48 Representatives:
- 49 a. A representative of a critical access hospital.
- 50 b. A representative of a federally qualified health center.

1 c. An individual with technical expertise in health information
2 technology.

3 (3) The following three ex officio, nonvoting members:

4 a. The State Chief Information Officer or a designee.

5 b. The Program Manager of GDAC or a designee.

6 c. The Chief Executive Officer of the Health Benefits Authority or a
7 designee.

8 (b) Chairperson. – A chairperson shall be elected from among the members. The
9 chairperson shall organize and direct the work of the Advisory Board.

10 (c) Administrative Support. – The Department of Information Technology shall provide
11 necessary clerical and administrative support to the Advisory Board.

12 (d) Meetings. – The Advisory Board shall meet at least quarterly and at the call of the
13 chairperson. A majority of the Advisory Board constitutes a quorum for the transaction of
14 business.

15 (e) Terms. – In order to stagger terms, in making initial appointments, the President Pro
16 Tempore shall designate two of the members appointed under subdivision (1) of subsection (a)
17 of this section to serve for a one-year period from the date of appointment, and the Speaker of
18 the House of Representatives shall designate two members appointed under subdivision (2) of
19 subsection (a) of this section to serve for a one-year period from the date of appointment. The
20 remaining voting members shall serve two-year periods. Future appointees who are voting
21 members shall serve terms of two years, with staggered terms based on this subsection. Voting
22 members may serve up to two consecutive terms, not including the abbreviated two-year terms
23 that establish staggered terms or terms of less than two years that result from the filling of a
24 vacancy. Ex officio, nonvoting members are not subject to these term limits. A vacancy other
25 than by expiration of a term shall be filled by the appointing authority.

26 (f) Expenses. – Members of the Advisory Board who are State officers or employees
27 shall receive no compensation for serving on the Advisory Board but may be reimbursed for
28 their expenses in accordance with G.S. 138-6. Members of the Advisory Board who are
29 full-time salaried public officers or employees other than State officers or employees shall
30 receive no compensation for serving on the Advisory Board but may be reimbursed for their
31 expenses in accordance with G.S. 138-5(b). All other members of the Advisory Board may
32 receive compensation and reimbursement for expenses in accordance with G.S. 138-5.

33 (g) Duties. – The Advisory Board shall provide consultation to the Authority with
34 respect to the advancement, administration, and operation of the HIE Network and on matters
35 pertaining to health information exchange, generally. In carrying out its responsibilities, the
36 Advisory Board may form committees of the Advisory Board to examine particular issues
37 related to the advancement, administration, or operation of the HIE Network.

38 **"§ 90-414.7. Participation by covered entities.**

39 (a) Each covered entity that elects to participate in the HIE Network shall enter into a
40 business associate contract and a written participation agreement with the Authority or
41 qualified organization prior to disclosing or accessing any protected health information through
42 the HIE Network.

43 (b) Each covered entity that elects to participate in the HIE Network may authorize its
44 business associates to disclose or access protected health information on behalf of the covered
45 entity through the HIE Network in accordance with this Article and at the discretion of the
46 Authority, as provided in G.S. 90-414.5(b)(8).

47 (c) Notwithstanding any State law or regulation to the contrary, each covered entity that
48 elects to participate in the HIE Network may disclose an individual's protected health
49 information through the HIE Network (i) to other covered entities for any purpose permitted by
50 HIPAA, unless the individual has exercised the right to opt out, and (ii) in order to facilitate the

1 provision of emergency medical treatment to the individual, subject to the requirements set
2 forth in G.S. 90-414.8(e).

3 (d) Any health care provider who relies in good faith upon any information provided
4 through the Authority or through a qualified organization in the health care provider's treatment
5 of a patient shall not incur criminal or civil liability for damages caused by the inaccurate or
6 incomplete nature of this information.

7 **"§ 90-414.8. Continuing right to opt out; effect of opt out; exception for emergency**
8 **medical treatment.**

9 (a) Each individual has the right on a continuing basis to opt out or rescind a decision to
10 opt out.

11 (b) The Authority or its designee shall enforce an individual's decision to opt out or
12 rescind an opt out prospectively from the date the Authority or its designee receives notice of
13 the individual's decision to opt out or rescind an opt out in the manner prescribed by the
14 Authority. An individual's decision to opt out or rescind an opt out does not affect any
15 disclosures made by the Authority or covered entities through the HIE Network prior to receipt
16 by the Authority or its designee of the individual's notice to opt out or rescind an opt out.

17 (c) A covered entity may not deny treatment or benefits to an individual because of the
18 individual's decision to opt out. However, nothing in this Article is intended to restrict a
19 treating physician from otherwise appropriately terminating a relationship with a patient in
20 accordance with applicable law and professional ethical standards.

21 (d) Except as otherwise permitted in subsection (e) of this section and
22 G.S. 90-414.9(a)(3), the protected health information of an individual who has exercised the
23 right to opt out may not be disclosed to covered entities through the HIE Network for any
24 purpose.

25 (e) The protected health information of an individual who has exercised the right to opt
26 out may be disclosed through the HIE Network in order to facilitate the provision of emergency
27 medical treatment to the individual if all of the following criteria are met:

28 (1) The reasonably apparent circumstances indicate to the treating health care
29 provider that (i) the individual has an emergency medical condition, (ii) a
30 meaningful discussion with the individual about whether to rescind a
31 previous decision to opt out is impractical due to the nature of the
32 individual's emergency medical condition, and (iii) information available
33 through the HIE Network could assist in the diagnosis or treatment of the
34 individual's emergency medical condition.

35 (2) The disclosure through the HIE Network is limited to the covered entities
36 providing diagnosis and treatment of the individual's emergency medical
37 condition.

38 (3) The circumstances and extent of the disclosure through the HIE Network is
39 recorded electronically in a manner that permits the Authority or its designee
40 to periodically audit compliance with this subsection.

41 **"§ 90-414.9. Construction and applicability.**

42 (a) Nothing in this Article shall be construed to do any of the following:

43 (1) Impair any rights conferred upon an individual under HIPAA, including all
44 of the following rights related to an individual's protected health
45 information:

46 a. The right to receive a notice of privacy practices.

47 b. The right to request restriction of use and disclosure.

48 c. The right of access to inspect and obtain copies.

49 d. The right to request amendment.

50 e. The right to request confidential forms of communication.

51 f. The right to receive an accounting of disclosures.

1 (2) Authorize the disclosure of protected health information through the HIE
2 Network to the extent that the disclosure is restricted by federal laws or
3 regulations, including the federal drug and alcohol confidentiality
4 regulations set forth in 42 C.F.R. Part 2.

5 (3) Restrict the disclosure of protected health information through the HIE
6 Network for public health purposes or research purposes, so long as
7 disclosure is permitted by both HIPAA and State law.

8 (4) Prohibit the Authority or any covered entity participating in the HIE
9 Network from maintaining in the Authority's or qualified organization's
10 computer system a copy of the protected health information of an individual
11 who has exercised the right to opt out, as long as the Authority or the
12 qualified organization does not access, use, or disclose the individual's
13 protected health information for any purpose other than for necessary system
14 maintenance or as required by federal or State law.

15 (b) This Article applies only to disclosures of protected health information made
16 through the HIE Network, including disclosures made within qualified organizations. It does
17 not apply to the use or disclosure of protected health information in any context outside of the
18 HIE Network, including the redisclosure of protected health information obtained through the
19 HIE Network.

20 "**§ 90-414.10. Penalties and remedies.**

21 A covered entity that discloses protected health information in violation of this Article is
22 subject to the following:

23 (1) Any civil penalty or criminal penalty, or both, that may be imposed on the
24 covered entity pursuant to the Health Information Technology for Economic
25 and Clinical Health (HITECH) Act, P.L. 111-5, Div. A, Title XIII, section
26 13001, as amended, and any regulations adopted under the HITECH Act.

27 (2) Any civil remedy under the HITECH Act or any regulations adopted under
28 the HITECH Act that is available to the Attorney General or to an individual
29 who has been harmed by a violation of this Article, including damages,
30 penalties, attorneys' fees, and costs.

31 (3) Disciplinary action by the respective licensing board or regulatory agency
32 with jurisdiction over the covered entity.

33 (4) Any penalty authorized under Article 2A of Chapter 75 of the General
34 Statutes if the violation of this Article is also a violation of Article 2A of
35 Chapter 75 of the General Statutes.

36 (5) Any other civil or administrative remedy available to a plaintiff by State or
37 federal law or equity."

38 **SECTION 12A.5.(e)** G.S. 126-5 is amended by adding a new subdivision to read:

39 "**§ 126-5. Employees subject to Chapter; exemptions.**

40 ...

41 (c1) Except as to the provisions of Articles 6 and 7 of this Chapter, the provisions of this
42 Chapter shall not apply to:

43 ...

44 (31) Employees of the North Carolina Health Information Exchange Authority."

45 **SECTION 12A.5.(f)** Article 29A of Chapter 90 of the General Statutes is repealed.

46 **SECTION 12A.5.(g)** Subsections (d) and (e) of this section become effective
47 October 1, 2015. Subsection (f) of this section becomes effective on the date the State Chief
48 Information Officer notifies the Revisor of Statutes that all contracts pertaining to the HIE
49 Network established under Article 29A of Chapter 90 of the General Statutes (i) between the
50 State and the NC HIE, as defined in G.S. 90-413.3, and (ii) between the NC HIE and any third
51 parties have been terminated or assigned to the North Carolina Health Information Exchange

1 Authority established under Article 29B of Chapter 90 of the General Statutes, as enacted by
2 subsection (d) of this section. The remainder of this section becomes effective July 1, 2015.
3

4 **FUNDS FOR NCTRACKS, THE REPLACEMENT MULTIPAYER MEDICAID**
5 **MANAGEMENT INFORMATION SYSTEM**

6 **SECTION 12A.6.** Of the funds appropriated in this act to the Department of Health
7 and Human Services, Division of Central Management and Support, for NCTRACKS, the sum
8 of four hundred thousand dollars (\$400,000) for the 2015-2016 fiscal year and the sum of four
9 hundred thousand dollars (\$400,000) for the 2016-2017 fiscal year shall be used to operate and
10 maintain NCTRACKS; and the sum of two million three hundred thousand dollars
11 (\$2,300,000) in nonrecurring funds for the 2015-2016 fiscal year and the sum of nine hundred
12 forty thousand dollars (\$940,000) in nonrecurring funds for the 2016-2017 fiscal year shall be
13 used to develop and implement the ICD-10 Project and the Business Process Automated
14 System for the Division of Health Service Regulation. In addition, overrealized receipts are
15 hereby appropriated to the Department of Health and Human Services, Division of Central
16 Management and Support, up to the amounts necessary to implement this section. In the event
17 it becomes necessary for the Department to utilize these overrealized receipts or any other
18 funds appropriated to the Department to implement this section, the Department shall first (i)
19 obtain prior approval from the Office of State Budget and Management (OSBM) and (ii)
20 consult with the Joint Legislative Oversight Committees on Health and Human Services and
21 Information Technology and the Fiscal Research Division. As part of the consultation required
22 by this section, the Department shall provide the amounts of any overrealized receipts or other
23 funds it intends to use to make up for any shortfall in funding for NCTRACKS and an
24 explanation of the circumstances necessitating the use of overrealized receipts or other funds to
25 make up for the shortfall.
26

27 **FUNDS FOR NORTH CAROLINA FAMILIES ACCESSING SERVICES THROUGH**
28 **TECHNOLOGY (NC FAST)**

29 **SECTION 12A.7.(a)** Departmental receipts appropriated in this act in the amount
30 of nine million eight hundred seventy-one thousand fifty-nine dollars (\$9,871,059) for the
31 2015-2016 fiscal year and thirteen million two hundred twenty thousand six hundred sixty-five
32 dollars (\$13,220,665) for the 2016-2017 fiscal year shall be used to provide ongoing
33 maintenance and operations for the NC FAST system, including the creation of three full-time
34 equivalent technology support analyst positions.

35 **SECTION 12A.7.(b)** Prior year earned revenue appropriated in this act in the
36 amount of six million six hundred forty-seven thousand eight hundred forty-nine dollars
37 (\$6,647,849) for the 2015-2016 fiscal year and five million two hundred ninety-eight thousand
38 one hundred seventy-eight dollars (\$5,298,178) for the 2016-2017 fiscal year and the cash
39 balance in Budget Code 24410 Fund 2411 for the North Carolina Families Accessing Services
40 through Technology (NC FAST) project shall be used to match federal funds in the 2015-2016
41 and 2016-2017 fiscal years to expedite the development and implementation of Child Care,
42 Low Income Energy Assistance, Crisis Intervention Programs, Child Services, and NC FAST
43 Federally-Facilitated Marketplace (FFM) Interoperability components of the NC FAST
44 program. The Department shall report any changes in approved federal funding or federal
45 match rates within 30 days after the change to the Joint Legislative Oversight Committees on
46 Health and Human Services and Information Technology and the Fiscal Research Division.
47

48 **COMPETITIVE GRANTS/NONPROFIT ORGANIZATIONS, HEALTH**
49 **DISPARITY-RELATED INITIATIVES, AND PHYSICAL HEALTH AND**
50 **NUTRITION**

1 **SECTION 12A.8.(a)** Of the funds appropriated in this act to the Department of
2 Health and Human Services, Division of Central Management and Support, the following
3 amounts shall be used for the specified purposes:

- 4 (1) The sum of ten million three hundred twenty-eight thousand nine hundred
5 eleven dollars (\$10,328,911) for each year of the 2015-2017 fiscal biennium
6 and the sum of three million eight hundred fifty-two thousand five hundred
7 dollars (\$3,852,500) appropriated in Section 12I.1 of this act in Social
8 Services Block Grant funds for each year of the 2015-2017 fiscal biennium
9 shall be used to allocate funds for nonprofit organizations.
- 10 (2) The sum of three million two hundred ninety-nine thousand five hundred
11 seventy-six dollars (\$3,299,576), offset by receipts in the amount of one
12 hundred fifty-five thousand four hundred sixty-eight dollars (\$155,468) for
13 each year of the 2015-2017 fiscal biennium and the sum of two million
14 seven hundred fifty-six thousand eight hundred fifty-five dollars
15 (\$2,756,855) appropriated in Section 12I.1 of this act in Preventive Health
16 Services Block Grant funds for the 2015-2016 fiscal year shall be used to
17 continue the established competitive grants process for health
18 disparity-related initiatives.
- 19 (3) The sum of four hundred twenty-six thousand three hundred thirty-three
20 dollars (\$426,333), offset by receipts in the amount of one hundred sixty
21 thousand twenty-one dollars (\$160,021) for each year of the 2015-2017
22 fiscal biennium and the sum of one million two hundred forty-three thousand
23 eight hundred ninety-nine dollars (\$1,243,899) appropriated in Section 12I.1
24 of this act in Preventive Health Services Block Grant funds for the
25 2015-2016 fiscal year shall be used to establish a competitive grants process
26 for physical health and nutrition-related initiatives.

27 **SECTION 12A.8.(b)** Nonprofit Organizations. –

- 28 (1) The Department shall continue administering a competitive grants process
29 for nonprofit funding. The Department shall administer a plan that, at a
30 minimum, includes each of the following:
- 31 a. A request for application (RFA) process to allow nonprofits to apply
32 for and receive State funds on a competitive basis. The Department
33 shall require nonprofits to include in the application, a plan to
34 evaluate the effectiveness, including measurable impact or outcomes,
35 of the activities, services, and programs for which the funds are being
36 requested.
- 37 b. A requirement that nonprofits match a minimum of fifteen percent
38 (15%) of the total amount of the grant award.
- 39 c. A requirement that the Secretary prioritize grant awards to those
40 nonprofits that are able to leverage non-State funds in addition to the
41 grant award.
- 42 d. A process that awards grants to nonprofits that have the capacity to
43 provide services on a statewide basis and that support any of the
44 following State health and wellness initiatives:
- 45 1. A program targeting advocacy, support, education, or
46 residential services for persons diagnosed with autism.
- 47 2. A system of residential supports for those afflicted with
48 substance abuse addiction.
- 49 3. A program of advocacy and supports for individuals with
50 intellectual and developmental disabilities or severe and
51 persistent mental illness, substance abusers, or the elderly.

- 1 4. Supports and services to children and adults with
- 2 developmental disabilities or mental health diagnoses.
- 3 5. A food distribution system for needy individuals.
- 4 6. The provision and coordination of services for the homeless.
- 5 7. The provision of services for individuals aging out of foster
- 6 care.
- 7 8. Programs promoting wellness, physical activity, and health
- 8 education programming for North Carolinians.
- 9 9. The provision of services and screening for blindness.
- 10 10. Provision for the delivery of after-school services for
- 11 apprenticeships or mentoring at-risk youth.
- 12 11. The provision of direct services for amyotrophic lateral
- 13 sclerosis (ALS) and those diagnosed with the disease.
- 14 12. A comprehensive smoking prevention and cessation program
- 15 that screens and treats tobacco use in pregnant women and
- 16 postpartum mothers.
- 17 13. A program providing short-term or long-term residential
- 18 substance abuse services. For purposes of this
- 19 sub-subdivision, "long-term" means a minimum of 12
- 20 months.
- 21 e. Ensures that funds received by the Department to implement the plan
- 22 supplement and do not supplant existing funds for health and
- 23 wellness programs and initiatives.
- 24 f. Allows grants to be awarded to nonprofits for up to two years.
- 25 g. With grants awarded beginning July 1, 2016, a requirement that of
- 26 the funds provided for competitive grants pursuant to this section, a
- 27 minimum of five percent (5%) of the grants be awarded to new grant
- 28 recipients who did not receive grant awards during the previous
- 29 competitive grants process.
- 30 (2) No later than July 1, 2015, and every two years thereafter, as applicable, the
- 31 Secretary shall announce the recipients of the competitive grant awards and
- 32 allocate funds to the grant recipients for the respective grant period pursuant
- 33 to the amounts designated under subdivision (1) of subsection (a) of this
- 34 section. After awards have been granted, the Secretary shall submit a report
- 35 to the Joint Legislative Oversight Committee on Health and Human Services
- 36 on the grant awards that includes at least all of the following:
- 37 a. The identity and a brief description of each grantee and each program
- 38 or initiative offered by the grantee.
- 39 b. The amount of funding awarded to each grantee.
- 40 c. The number of persons served by each grantee, broken down by
- 41 program or initiative.
- 42 (3) No later than December 1 of each fiscal year, each nonprofit organization
- 43 receiving funding pursuant to this subsection in the respective fiscal year
- 44 shall submit to the Division of Central Management and Support a written
- 45 report of all activities funded by State appropriations. The report shall
- 46 include the following information about the fiscal year preceding the year in
- 47 which the report is due:
- 48 a. The entity's mission, purpose, and governance structure.
- 49 b. A description of the types of programs, services, and activities
- 50 funded by State appropriations.

- 1 c. Statistical and demographical information on the number of persons
2 served by these programs, services, and activities, including the
3 counties in which services are provided.
- 4 d. Outcome measures that demonstrate the impact and effectiveness of
5 the programs, services, and activities.
- 6 e. A detailed program budget and list of expenditures, including all
7 positions funded, matching expenditures, and funding sources.
- 8 (4) For the 2015-2017 fiscal biennium only, from the funds identified in
9 subdivision (1) of subsection (a) of this section, the Department shall
10 allocate the sum of three hundred fifty thousand dollars (\$350,000) in each
11 year of the 2015-2017 fiscal biennium to Big Brothers Big Sisters North
12 Carolina Collaborative for the purpose of providing mentoring services. Big
13 Brothers Big Sisters North Carolina Collaborative shall be required to seek
14 future funding through the competitive grants process in accordance with
15 subdivision (1) of this subsection.

16 **SECTION 12A.8.(c) Health Disparity-Related Initiatives. –**

- 17 (1) Funds identified in subdivision (2) of subsection (a) of this section shall be
18 used to continue the competitive grants process established to close the gap
19 in the health status of African-Americans, Hispanics/Latinos, and American
20 Indians as compared to the health status of white persons. These grants shall
21 continue to focus on the use of measures to eliminate or reduce health
22 disparities among minority populations in this State with respect to heart
23 disease, stroke, diabetes, obesity, asthma, HIV/AIDS, cancer, infant
24 mortality, and low birth weight.
- 25 (2) It is the intent of the General Assembly that the Department continue
26 implementing the competitive grants process established for health
27 disparity-related initiatives funding to be administered by the Division of
28 Central Management and Support. The Department shall continue
29 implementing a process that, at a minimum, includes each of the following:
- 30 a. A request for application (RFA) process to allow an entity to apply
31 for and receive State funds on a competitive basis. The Department
32 shall require entities to include in the application, a plan to evaluate
33 the effectiveness, including measurable impact or outcomes, of
34 activities, services, and programs for which the funds are being
35 requested.
- 36 b. The amount of any grant award is limited to three hundred thousand
37 dollars (\$300,000).
- 38 c. Only community-based organizations, faith-based organizations,
39 local health departments, and hospitals located in urban and rural
40 areas of the western, eastern, and Piedmont areas of this State are
41 eligible to apply for these grants. No more than four grants shall be
42 awarded to applicants located in any one of the three areas specified
43 in this sub-subdivision.
- 44 d. Each eligible applicant shall be required to demonstrate substantial
45 participation and involvement with all other categories of eligible
46 applicants in order to ensure an evidence-based medical home model
47 that will affect change in health and geographic disparities.
- 48 e. Eligible applicants shall select one or more of the following chronic
49 illnesses or conditions specific to the applicant's geographic area as
50 the basis for applying for a grant under this subdivision to affect

- 1 change in the health status of African-Americans, Hispanics/Latinos,
2 or American Indians:
- 3 1. Heart disease.
 - 4 2. Stroke.
 - 5 3. Diabetes.
 - 6 4. Obesity.
 - 7 5. Asthma.
 - 8 6. HIV/AIDS.
 - 9 7. Cancer.
 - 10 8. Infant mortality.
 - 11 9. Low birth weight.
- 12 f. The minimum duration of the grant period for any grant awarded
13 under this subsection is two years.
- 14 g. The maximum duration of the grant period for any grant awarded
15 under this subsection is three years.
- 16 h. If approved for a grant award, the grantee (i) shall not use more than
17 eight percent (8%) of the grant funds for overhead costs and (ii) shall
18 be required at the end of the grant period to demonstrate significant
19 gains in addressing one or more of the health disparity focus areas
20 identified in subdivision (1) of this subsection.
- 21 i. An independent panel with expertise in the delivery of services to
22 minority populations, health disparities, chronic illnesses and
23 conditions, and HIV/AIDS shall conduct the review of applications
24 for grants. The Department shall establish the independent panel
25 required by this sub-subdivision.
- 26 (3) The grants awarded under this subsection shall be awarded in honor of the
27 memory of the following deceased members of the General Assembly:
28 Bernard Allen, Pete Cunningham, John Hall, Robert Holloman, Howard
29 Hunter, Ed Jones, Jeanne Lucas, Vernon Malone, William Martin, and
30 William Wainwright. These funds shall be used for concerted efforts to
31 address large gaps in health status among North Carolinians who are
32 African-American, as well as disparities among other minority populations
33 in North Carolina.
- 34 (4) By October 1, 2017, the Department shall submit a report to the Joint
35 Legislative Oversight Committee on Health and Human Services and the
36 Fiscal Research Division on funds appropriated for grants allocated pursuant
37 to this subsection for the 2015-2017 fiscal biennium. The report shall include
38 specific activities undertaken by grantees pursuant to subdivision (1) of this
39 subsection to address large gaps in health status among North Carolinians
40 who are African-American and other minority populations in this State and
41 shall also address all of the following:
- 42 a. Which community-based organizations, faith-based organizations,
43 local health departments, and hospitals received grants.
 - 44 b. The amount of funding awarded to each grantee.
 - 45 c. Which of the minority populations were served by each grantee.
 - 46 d. Which community-based organizations, faith-based organizations,
47 local health departments, and hospitals were involved in fulfilling the
48 goals and activities of each grant-in-aid awarded under this section
49 and what activities were planned and implemented by the grantee to
50 fulfill the community focus of grants awarded pursuant to this
51 subsection.

- 1 e. How the activities implemented by the grantee fulfilled the goal of
2 reducing health disparities among minority populations and the
3 specific success in reducing particular incidences.

4 **SECTION 12A.8.(d) Physical Health and Nutrition-Related Activities. –**

- 5 (1) Funds identified in subdivision (3) of subsection (a) of this section shall be
6 used to establish and administer a competitive grants process for programs
7 demonstrated to improve physical health and nutrition across the State.

- 8 (2) It is the intent of the General Assembly that, beginning fiscal year
9 2015-2016, the Department implements a competitive grants process for
10 physical health and nutrition-related initiatives funding. To that end, the
11 Department shall develop a plan that establishes a competitive grants process
12 to be administered by the Division of Central Management and Support. The
13 Department shall develop a plan that, at a minimum, includes each of the
14 following:

- 15 a. A request for application (RFA) process to allow an entity to apply
16 for and receive State funds on a competitive basis. The Department
17 shall require entities to include in the application, a plan to evaluate
18 the effectiveness, including measurable impact or outcomes, of
19 activities, services, and programs for which the funds are being
20 requested.
21 b. A process that awards grants to entities that have the capacity to
22 provide services on a statewide basis and support physical health and
23 nutrition initiatives.
24 c. Ensures that funds received by the Department to implement the plan
25 supplement and do not supplant existing funds for physical health
26 and nutrition programs and initiatives.
27 d. Allows grants to be awarded for up to two years.

- 28 (3) No later than February 1, 2016, the Secretary of Health and Human Services
29 shall develop a plan for the implementation of the competitive grants process
30 for physical health and nutrition-related initiative funding and shall report to
31 the Joint Legislative Oversight Committee on Health and Human Services
32 on the plan.

- 33 (4) No later than March 1, 2016, the Secretary of Health and Human Services
34 shall implement the plan for the competitive grants process.

- 35 (5) No later than July 1, 2016, the Secretary shall announce the recipients of the
36 competitive grant awards and allocate funds to the grant recipients for the
37 2016-2017 fiscal year pursuant to the amounts designated under subdivision
38 (3) of subsection (a) of this section. After awards have been granted, the
39 Secretary shall submit a report to the Joint Legislative Oversight Committee
40 on Health and Human Services on the grant awards that includes at least all
41 of the following:

- 42 a. The identity and a brief description of each grantee and each program
43 or initiative offered by the grantee.
44 b. The amount of funding awarded to each grantee.
45 c. The number of persons served by each grantee, broken down by
46 program or initiative.

- 47 (6) No later than December 1, 2016, each program receiving funding pursuant to
48 subdivision (3) of subsection (a) of this section shall submit to the Division
49 of Central Management and Support a written report of all activities funded
50 by State appropriations. The report shall include the following information
51 about the fiscal year preceding the year in which the report is due:

- a. The entity's mission, purpose, and governance structure.
- b. A description of the type of program, service, or activity funded by State appropriations.
- c. Statistical and demographical information on the number of persons served by the program, service, or activity, including the counties in which services are provided.
- d. Outcome measures that demonstrate the impact and effectiveness of the program, service, or activity.
- e. A detailed program budget and list of expenditures, including all positions funded and funding sources.
- f. The source and amount of any matching funds received by the entity.

COMMUNITY HEALTH GRANT PROGRAM CHANGES

SECTION 12A.9. The Department of Health and Human Services, Office of Rural Health and Community Care, shall repurpose two million two hundred fifty thousand dollars (\$2,250,000) in Health Net appropriations to the Community Health Grant Program. The new appropriation for this program is seven million six hundred eighty-seven thousand one hundred sixty-nine dollars (\$7,687,169) in recurring funds. To ensure continuity of care, safety-net agencies receiving Health Net funds at the end of the 2014-2015 fiscal year shall be eligible to apply for and receive Community Health Grant funds at their current level of funding for the 2015-2016 and 2016-2017 fiscal years. After the 2016-2017 fiscal year, these agencies must submit an application for funding through the competitive Community Health Grant process. The Community Health Grant Program is available to rural health centers, free clinics, public health departments, school-based health centers, federally qualified health centers, and other nonprofit organizations that provide primary care and preventive health services to low-income populations, including uninsured, underinsured, Medicaid, and Medicare residents across the State.

RURAL HEALTH LOAN REPAYMENT PROGRAMS

SECTION 12A.10.(a) The Department of Health and Human Services, Office of Rural Health and Community Care, shall use funds appropriated in this act 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.

SECTION 12A.10.(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 (CAHs) 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.

FUNDS FOR COMMUNITY PARAMEDICINE PILOT PROGRAM

SECTION 12A.12.(a) Of the funds appropriated in this act to the Department of Health and Human Services, Division of Central Management and Support, for the 2015-2016 fiscal year, the sum of three hundred fifty thousand dollars (\$350,000) shall be used to implement a community paramedicine pilot program. The pilot program shall focus on

1 expanding the role of paramedics to allow for community-based initiatives that result in
2 providing care that avoids nonemergency use of emergency rooms and 911 services and avoids
3 unnecessary admissions into health care facilities.

4 **SECTION 12A.12.(b)** The North Carolina Office of Emergency Medical Services
5 (NCOEMS) shall set the education standards and other requirements necessary to qualify as a
6 community paramedic eligible to participate in the pilot program established in subsection (a)
7 of this section. The Department shall consult with the NCOEMS to define the objectives, set
8 standards, and establish the required outcomes for the pilot program.

9 **SECTION 12A.12.(c)** The Department of Health and Human Services shall
10 establish up to three program sites to implement the community paramedicine pilot program,
11 one of which shall be New Hanover Regional Emergency Medical Services. For the 2015-2016
12 fiscal year, the New Hanover Regional Emergency Medical Services program site shall be
13 awarded up to two hundred ten thousand dollars (\$210,000), and each of the remaining
14 program sites may be awarded up to seventy thousand dollars (\$70,000). In selecting the
15 remaining program sites, the Department may give preference to counties that currently have an
16 established community paramedic program.

17 **SECTION 12A.12.(d)** The Department of Health and Human Services shall submit
18 a report to the Senate Appropriations Committee on Health and Human Services, the House of
19 Representatives Appropriations Committee on Health and Human Services, and the Fiscal
20 Research Division by June 1, 2016, on the progress of the pilot program and shall include an
21 evaluation plan based on the U.S. Department of Health and Human Services, Health
22 Resources and Services Administration Office of Rural Health Policy's Community
23 Paramedicine Evaluation Tool published in March 2012.

24 **SECTION 12A.12.(e)** The Department of Health and Human Services shall submit
25 a final report to the Joint Legislative Oversight Committee on Health and Human Services and
26 the Fiscal Research Division by November 1, 2016. At a minimum, the final report shall
27 include all of the following:

- 28 (1) An updated version of the evaluation plan required by subsection (d) of this
29 section.
- 30 (2) An estimate of the cost to expand the program incrementally and statewide.
- 31 (3) An estimate of any potential savings of State funds associated with
32 expansion of the program.
- 33 (4) If expansion of the program is recommended, a time line for expanding the
34 program.

35 36 **FUNDS FOR DESIGN AND IMPLEMENTATION OF CONTRACTING SPECIALIST 37 AND CERTIFICATION PROGRAM**

38 **SECTION 12A.13.** Funds appropriated in this act to the Department of Health and
39 Human Services, Division of Central Management and Support, for the design of a contracting
40 specialist training and certification program for management level personnel within the
41 Department of Health and Human Services (DHHS) shall be used as follows:

- 42 (1) For the 2015-2016 fiscal year, the sum of one hundred fifty thousand dollars
43 (\$150,000) in nonrecurring funds shall be allocated to the University of
44 North Carolina School of Government (SOG) to design the program for
45 permanent administration by the Office of State Human Resources (OSHR).
46 SOG shall design a program that is similar to its Certified Local Government
47 Purchasing Officer program and local purchasing and contracts program.
48 OSHR, SOG, and the Office of the State Chief Information Officer shall
49 provide assistance on program design and implementation as requested by
50 DHHS, OSHR, or SOG. To the extent practical, DHHS, OSHR, and SOG
51 shall design and develop the program as a prototype for a State

1 government-wide program. Although designed for personal and professional
2 services contracting, the design may incorporate any applicable best
3 practices for construction and technology contracting.

4 (2) For the 2016-2017 fiscal year:

5 a. The sum of twenty-five thousand dollars (\$25,000) in nonrecurring
6 funds shall be used to assist both DHHS and OSHR with program
7 implementation.

8 b. The sum of one hundred seventy-five thousand dollars (\$175,000) in
9 recurring funds shall be used for program support and to fund two
10 full-time equivalent positions within OSHR dedicated to oversight
11 of, and training for, this new program.
12

13 **CHILD WELFARE CASE MANAGEMENT SYSTEM**

14 **SECTION 12A.14.(a)** Funds appropriated in this act to the Department of Health
15 and Human Services, Division of Central Management and Support, in the amount of five
16 million eight hundred three thousand dollars (\$5,803,000) in nonrecurring funds and prior year
17 earned revenue in the amount of two million seven hundred fifty-two thousand one hundred
18 fifty-one dollars (\$2,752,151) for the 2015-2016 fiscal year and in the amount of thirteen
19 million fifty-two thousand dollars (\$13,052,000) in nonrecurring funds and prior year earned
20 revenue in the amount of four million one hundred one thousand eight hundred twenty-four
21 dollars (\$4,101,824) for the 2016-2017 fiscal year shall be used to purchase a child welfare
22 case management system that has demonstrated its ability to provide child welfare case
23 management services in another state within the United States. The Division shall purchase a
24 system that can be integrated with North Carolina Families Accessing Services through
25 Technology (NC FAST) and the work product of the Child Protective Services Pilot Project
26 being conducted in accordance with Section 12C.11 of this act. The Division shall issue a
27 request for proposals (RFP) in selecting a system for purchase. The Department shall not move
28 forward with implementing the child welfare case management system in NC FAST.

29 **SECTION 12A.14.(b)** It is the intent of the General Assembly that beginning fiscal
30 year 2016-2017, all Department of Health and Human Services' information technology assets,
31 resources, and personnel transfer to the Department of Information Technology, as created in
32 this act. To that end, the planning, development, and implementation of the child welfare case
33 management system described in this section shall be coordinated with the Department of
34 Information Technology.

35 **SECTION 12A.14.(c)** The Department shall report on the results of the RFP to the
36 Joint Legislative Oversight Committee on Health and Human Services, the Joint Legislative
37 Oversight Committee on Information Technology, and the Fiscal Research Division no later
38 than October 1, 2016.
39

40 **SUBPART XII-B. DIVISION OF CHILD DEVELOPMENT AND EARLY EDUCATION**

41 **NC PRE-K PROGRAM/STANDARDS FOR FOUR- AND FIVE-STAR RATED** 42 **FACILITIES**

43 **SECTION 12B.1.(a)** Eligibility. – The Department of Health and Human Services,
44 Division of Child Development and Early Education, shall continue implementing the
45 prekindergarten program (NC Pre-K). The NC Pre-K program shall serve children who are four
46 years of age on or before August 31 of the program year. In determining eligibility, the
47 Division shall establish income eligibility requirements for the program not to exceed
48 seventy-five percent (75%) of the State median income. Up to twenty percent (20%) of children
49 enrolled may have family incomes in excess of seventy-five percent (75%) of median income if
50 those children have other designated risk factors. Furthermore, any age-eligible child who is a
51

1 child of either of the following shall be eligible for the program: (i) an active duty member of
 2 the Armed Forces of the United States, including the North Carolina National Guard, State
 3 military forces, or a reserve component of the Armed Forces who was ordered to active duty by
 4 the proper authority within the last 18 months or is expected to be ordered within the next 18
 5 months or (ii) a member of the Armed Forces of the United States, including the North
 6 Carolina National Guard, State military forces, or a reserve component of the Armed Forces
 7 who was injured or killed while serving on active duty. Eligibility determinations for
 8 prekindergarten participants may continue through local education agencies and local North
 9 Carolina Partnership for Children, Inc., partnerships.

10 Other than developmental disabilities or other chronic health issues, the Division
 11 shall not consider the health of a child as a factor in determining eligibility for participation in
 12 the NC Pre-K program.

13 **SECTION 12B.1.(b) Multiyear Contracts.** – The Division of Child Development
 14 and Early Education shall require the NC Pre-K contractor to issue multiyear contracts for
 15 licensed private child care centers providing NC Pre-K classrooms.

16 **SECTION 12B.1.(c) Programmatic Standards.** – All entities operating
 17 prekindergarten classrooms shall adhere to all of the policies prescribed by the Division of
 18 Child Development and Early Education regarding programmatic standards and classroom
 19 requirements.

20 **SECTION 12B.1.(d) NC Pre-K Committees.** – Local NC Pre-K committees shall
 21 use the standard decision-making process developed by the Division of Child Development and
 22 Early Education in awarding prekindergarten classroom slots and student selection.

23 **SECTION 12B.1.(e) Reporting.** – The Division of Child Development and Early
 24 Education shall submit an annual report no later than March 15 of each year to the Joint
 25 Legislative Oversight Committee on Health and Human Services, the Office of State Budget
 26 and Management, and the Fiscal Research Division. The report shall include the following:

- 27 (1) The number of children participating in the NC Pre-K program by county.
- 28 (2) The number of children participating in the NC Pre-K program who have
 29 never been served in other early education programs such as child care,
 30 public or private preschool, Head Start, Early Head Start, or early
 31 intervention programs.
- 32 (3) The expected NC Pre-K expenditures for the programs and the source of the
 33 local contributions.
- 34 (4) The results of an annual evaluation of the NC Pre-K program.

35 **SECTION 12B.1.(f) Audits.** – The administration of the NC Pre-K program by
 36 local partnerships shall be subject to the financial and compliance audits authorized under
 37 G.S. 143B-168.14(b).

38
 39 **CHILD CARE SUBSIDY RATES**

40 **SECTION 12B.2.(a)** The maximum gross annual income for initial eligibility,
 41 adjusted biennially, for subsidized child care services shall be determined based on a
 42 percentage of the federal poverty level as follows:

| 43 AGE | INCOME PERCENTAGE LEVEL |
|---------------|--------------------------------|
| 44 0 – 5 | 200% |
| 45 6 – 12 | 133% |

46 The eligibility for any child with special needs, including a child who is 13 years of
 47 age or older, shall be two hundred percent (200%) of the federal poverty level.

48 **SECTION 12B.2.(b)** Effective July 1, 2015, the Department of Health and Human
 49 Services, Division of Child Development and Early Education, shall revise its child care
 50 subsidy policy to exclude from the policy's definition of "income unit" a nonparent relative

1 caretaker, and the caretaker's spouse and child, if applicable, when the parent of the child
2 receiving child care subsidy does not live in the home with the child.

3 **SECTION 12B.2.(c)** Fees for families who are required to share in the cost of care
4 are established based on ten percent (10%) of gross family income. Co-payments shall not be
5 prorated for part-time care.

6 **SECTION 12B.2.(d)** Payments for the purchase of child care services for
7 low-income children shall be in accordance with the following requirements:

- 8 (1) Religious-sponsored child care facilities operating pursuant to G.S. 110-106
9 and licensed child care centers and homes that meet the minimum licensing
10 standards that are participating in the subsidized child care program shall be
11 paid the one-star county market rate or the rate they charge privately paying
12 parents, whichever is lower, unless prohibited by subsection (g) of this
13 section.
- 14 (2) Licensed child care centers and homes with two or more stars shall receive
15 the market rate for that rated license level for that age group or the rate they
16 charge privately paying parents, whichever is lower, unless prohibited by
17 subsection (g) of this section.
- 18 (3) Nonlicensed homes shall receive fifty percent (50%) of the county market
19 rate or the rate they charge privately paying parents, whichever is lower.
- 20 (4) No payments shall be made for transportation services or registration fees
21 charged by child care facilities.
- 22 (5) Payments for subsidized child care services for postsecondary education
23 shall be limited to a maximum of 20 months of enrollment.
- 24 (6) The Department of Health and Human Services shall implement necessary
25 rule changes to restructure services, including, but not limited to, targeting
26 benefits to employment.

27 **SECTION 12B.2.(e)** Provisions of payment rates for child care providers in
28 counties that do not have at least 50 children in each age group for center-based and
29 home-based care are as follows:

- 30 (1) Except as applicable in subdivision (2) of this subsection, payment rates
31 shall be set at the statewide or regional market rate for licensed child care
32 centers and homes.
- 33 (2) If it can be demonstrated that the application of the statewide or regional
34 market rate to a county with fewer than 50 children in each age group is
35 lower than the county market rate and would inhibit the ability of the county
36 to purchase child care for low-income children, then the county market rate
37 may be applied.

38 **SECTION 12B.2.(f)** A market rate shall be calculated for child care centers and
39 homes at each rated license level for each county and for each age group or age category of
40 enrollees and shall be representative of fees charged to parents for each age group of enrollees
41 within the county. The Division of Child Development and Early Education shall also calculate
42 a statewide rate and regional market rate for each rated license level for each age category.

43 **SECTION 12B.2.(g)** The Division of Child Development and Early Education
44 shall continue implementing policies that improve the quality of child care for subsidized
45 children, including a policy in which child care subsidies are paid, to the extent possible, for
46 child care in the higher-quality centers and homes only. The Division shall define
47 higher-quality, and subsidy funds shall not be paid for one- or two-star-rated facilities. For
48 those counties with an inadequate number of four- and five-star-rated facilities, the Division
49 shall continue a transition period that allows the facilities to continue to receive subsidy funds
50 while the facilities work on the increased star ratings. The Division may allow exemptions in

1 counties where there is an inadequate number of four- and five-star-rated facilities for
2 non-star-rated programs, such as religious programs.

3 **SECTION 12B.2.(h)** Facilities licensed pursuant to Article 7 of Chapter 110 of the
4 General Statutes and facilities operated pursuant to G.S. 110-106 may participate in the
5 program that provides for the purchase of care in child care facilities for minor children of
6 needy families. Except as authorized by subsection (g) of this section, no separate licensing
7 requirements shall be used to select facilities to participate. In addition, child care facilities
8 shall be required to meet any additional applicable requirements of federal law or regulations.
9 Child care arrangements exempt from State regulation pursuant to Article 7 of Chapter 110 of
10 the General Statutes shall meet the requirements established by other State law and by the
11 Social Services Commission.

12 County departments of social services or other local contracting agencies shall not
13 use a provider's failure to comply with requirements in addition to those specified in this
14 subsection as a condition for reducing the provider's subsidized child care rate.

15 **SECTION 12B.2.(i)** Payment for subsidized child care services provided with
16 Temporary Assistance for Needy Families Block Grant funds shall comply with all regulations
17 and policies issued by the Division of Child Development and Early Education for the
18 subsidized child care program.

19 **SECTION 12B.2.(j)** Noncitizen families who reside in this State legally shall be
20 eligible for child care subsidies if all other conditions of eligibility are met. If all other
21 conditions of eligibility are met, noncitizen families who reside in this State illegally shall be
22 eligible for child care subsidies only if at least one of the following conditions is met:

- 23 (1) The child for whom a child care subsidy is sought is receiving child
24 protective services or foster care services.
- 25 (2) The child for whom a child care subsidy is sought is developmentally
26 delayed or at risk of being developmentally delayed.
- 27 (3) The child for whom a child care subsidy is sought is a citizen of the United
28 States.

29 **SECTION 12B.2.(k)** The Department of Health and Human Services, Division of
30 Child Development and Early Education, shall require all county departments of social services
31 to include on any forms used to determine eligibility for child care subsidy whether the family
32 waiting for subsidy is receiving assistance through the NC Pre-K Program or Head Start.

33 34 **CHILD CARE SUBSIDY MARKET RATE INCREASES/CERTAIN AGE GROUPS** 35 **AND COUNTIES**

36 **SECTION 12B.2A.** Beginning September 1, 2015, the Department of Health and
37 Human Services, Division of Child Development and Early Education, shall increase the child
38 care subsidy market rates to the rates recommended by the 2013 Child Care Market Rate Study
39 from birth through two years of age in three-, four-, and five-star-rated child care centers and
40 homes in tier one and tier two counties. For purposes of this section, tier one and tier two
41 counties shall have the same designations as those established by the N.C. Department of
42 Commerce.

43 44 **CHILD CARE ALLOCATION FORMULA**

45 **SECTION 12B.3.(a)** The Department of Health and Human Services shall allocate
46 child care subsidy voucher funds to pay the costs of necessary child care for minor children of
47 needy families. The mandatory thirty-percent (30%) North Carolina Partnership for Children,
48 Inc., subsidy allocation under G.S. 143B-168.15(g) shall constitute the base amount for each
49 county's child care subsidy allocation. The Department of Health and Human Services shall use
50 the following method when allocating federal and State child care funds, not including the

1 aggregate mandatory thirty-percent (30%) North Carolina Partnership for Children, Inc.,
2 subsidy allocation:

- 3 (1) Funds shall be allocated to a county based upon the projected cost of serving
4 children under age 11 in families with all parents working who earn less than
5 the applicable federal poverty level percentage set forth in Section 12B.2 of
6 this act.
- 7 (2) The Department of Health and Human Services shall allocate to counties all
8 State funds appropriated for child care subsidy and shall not withhold funds
9 during the 2015-2016 and 2016-2017 fiscal years.

10 **SECTION 12B.3.(b)** The Department of Health and Human Services may
11 reallocate unused child care subsidy voucher funds in order to meet the child care needs of
12 low-income families. Any reallocation of funds shall be based upon the expenditures of all
13 child care subsidy voucher funding, including North Carolina Partnership for Children, Inc.,
14 funds within a county.

15 **SECTION 12B.3.(c)** When implementing the formula under subsection (a) of this
16 section, the Department of Health and Human Services, Division of Child Development and
17 Early Education, shall include the market rate increase in the formula process, rather than
18 calculating the increases outside of the formula process. Additionally, the Department shall do
19 the following:

- 20 (1) For fiscal year 2015-2016, (i) continue implementing one-third of the change
21 in a county's allocation based on the new Census data; (ii) implement an
22 additional one-third of the change in a county's allocation beginning fiscal
23 year 2016-2017; and (iii) the final one-third change in a county's allocation
24 beginning fiscal year 2018-2019. However, beginning fiscal year 2015-2016,
25 a county's initial allocation shall be the county's expenditure in the previous
26 fiscal year. With the exception of market rate increases consistent with any
27 increases approved by the General Assembly, a county whose spending
28 coefficient is less than ninety-five percent (95%) in the previous fiscal year
29 shall receive its prior year's expenditure as its allocation and shall not receive
30 an increase in its allocation in the following year. A county whose spending
31 coefficient is at least ninety-five percent (95%) in the previous fiscal year
32 shall receive, at a minimum, the amount it expended in the previous fiscal
33 year and may receive additional funding, if available. The Division may
34 waive this requirement and allow an increase if the spending coefficient is
35 below ninety-five percent (95%) due to extraordinary circumstances, such as
36 a State or federal disaster declaration in the affected county. By October 1 of
37 each year, the Division shall report to the Joint Legislative Oversight
38 Committee on Health and Human Services and the Fiscal Research Division
39 the counties that received a waiver pursuant to this subdivision and the
40 reasons for the waiver.
- 41 (2) Effective immediately following the next new Census data release,
42 implement (i) one-third of the change in a county's allocation in the year
43 following the data release; (ii) an additional one-third of the change in a
44 county's allocation beginning two years after the initial change under this
45 subdivision; and (iii) the final one-third change in a county's allocation
46 beginning the following two years thereafter.

47 **CHILD CARE FUNDS MATCHING REQUIREMENTS**

48 **SECTION 12B.4.** No local matching funds may be required by the Department of
49 Health and Human Services as a condition of any locality's receiving its initial allocation of
50 child care funds appropriated by this act unless federal law requires a match. If the Department
51

1 reallocates additional funds above twenty-five thousand dollars (\$25,000) to local purchasing
2 agencies beyond their initial allocation, local purchasing agencies must provide a twenty
3 percent (20%) local match to receive the reallocated funds. Matching requirements shall not
4 apply when funds are allocated because of an emergency as defined in G.S. 166A-19.3(6).
5

6 **CHILD CARE REVOLVING LOAN**

7 **SECTION 12B.5.** Notwithstanding any law to the contrary, funds budgeted for the
8 Child Care Revolving Loan Fund may be transferred to and invested by the financial institution
9 contracted to operate the Fund. The principal and any income to the Fund may be used to make
10 loans, reduce loan interest to borrowers, serve as collateral for borrowers, pay the contractor's
11 cost of operating the Fund, or pay the Department's cost of administering the program.
12

13 **ADMINISTRATIVE ALLOWANCE FOR COUNTY DEPARTMENTS OF SOCIAL** 14 **SERVICES/USE OF SUBSIDY FUNDS FOR FRAUD DETECTION**

15 **SECTION 12B.6.(a)** The Department of Health and Human Services, Division of
16 Child Development and Early Education, shall fund the allowance that county departments of
17 social services may use for administrative costs at four percent (4%) of the county's total child
18 care subsidy funds allocated in the Child Care and Development Fund Block Grant plan or
19 eighty thousand dollars (\$80,000), whichever is greater.

20 **SECTION 12B.6.(b)** Each county department of social services may use up to two
21 percent (2%) of child care subsidy funds allocated to the county for fraud detection and
22 investigation initiatives.

23 **SECTION 12B.6.(c)** The Division of Child Development and Early Education may
24 adjust the allocations in the Child Care and Development Fund Block Grant under Section
25 12I.1 of this act according to (i) the final allocations for local departments of social services
26 under subsection (a) of this section and (ii) the funds allocated for fraud detection and
27 investigation initiatives under subsection (b) of this section. The Division shall submit a report
28 on the final adjustments to the allocations of the four percent (4%) administrative costs to the
29 Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research
30 Division no later than September 30 of each year.
31

32 **EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES** 33 **ENHANCEMENTS**

34 **SECTION 12B.7.(a)** Policies. – The North Carolina Partnership for Children, Inc.,
35 and its Board shall ensure policies focus on the North Carolina Partnership for Children, Inc.'s
36 mission of improving child care quality in North Carolina for children from birth to five years
37 of age. North Carolina Partnership for Children, Inc.-funded activities shall include assisting
38 child care facilities with (i) improving quality, including helping one-, two-, and
39 three-star-rated facilities increase their star ratings and (ii) implementing prekindergarten
40 programs. State funding for local partnerships shall also be used for evidence-based or
41 evidence-informed programs for children from birth to five years of age that do the following:

- 42 (1) Increase children's literacy.
- 43 (2) Increase the parents' ability to raise healthy, successful children.
- 44 (3) Improve children's health.
- 45 (4) Assist four- and five-star-rated facilities in improving and maintaining
46 quality.

47 **SECTION 12B.7.(b)** Administration. – Beginning fiscal year 2015-2016,
48 administrative costs for central administration shall be equivalent to not more than three and
49 twenty-five hundredths percent (3.25%). Administrative costs shall be equivalent to, on an
50 average statewide basis for all local partnerships, not more than seven and seventy-five
51 hundredths percent (7.75%) of the total statewide allocation to all local partnerships for the

1 2015-2016 fiscal year and beginning fiscal year 2016-2017, equivalent to not more than seven
2 and five-tenths percent (7.5%) of the total statewide allocation to all local partnerships. For
3 purposes of this subsection, administrative costs shall include costs associated with partnership
4 oversight, business and financial management, general accounting, human resources,
5 budgeting, purchasing, contracting, and information systems management. The North Carolina
6 Partnership for Children, Inc., shall continue using a single statewide contract management
7 system that incorporates features of the required standard fiscal accountability plan described in
8 G.S. 143B-168.12(a)(4). All local partnerships are required to participate in the contract
9 management system and, directed by the North Carolina Partnership for Children, Inc., to
10 collaborate, to the fullest extent possible, with other local partnerships to increase efficiency
11 and effectiveness.

12 **SECTION 12B.7.(c) Salaries.** – The salary schedule developed and implemented
13 by the North Carolina Partnership for Children, Inc., shall set the maximum amount of State
14 funds that may be used for the salary of the Executive Director of the North Carolina
15 Partnership for Children, Inc., and the directors of the local partnerships. The North Carolina
16 Partnership for Children, Inc., shall base the schedule on the following criteria:

- 17 (1) The population of the area serviced by a local partnership.
- 18 (2) The amount of State funds administered.
- 19 (3) The amount of total funds administered.
- 20 (4) The professional experience of the individual to be compensated.
- 21 (5) Any other relevant factors pertaining to salary, as determined by the North
22 Carolina Partnership for Children, Inc.

23 The salary schedule shall be used only to determine the maximum amount of State
24 funds that may be used for compensation. Nothing in this subsection shall be construed to
25 prohibit a local partnership from using non-State funds to supplement an individual's salary in
26 excess of the amount set by the salary schedule established under this subsection.

27 **SECTION 12B.7.(d) Match Requirements.** – The North Carolina Partnership for
28 Children, Inc., and all local partnerships shall, in the aggregate, be required to match one
29 hundred percent (100%) of the total amount budgeted for the program in each fiscal year of the
30 2015-2017 biennium. Of the funds the North Carolina Partnership for Children, Inc., and the
31 local partnerships are required to match, contributions of cash shall be equal to at least twelve
32 percent (12%) and in-kind donated resources shall be equal to no more than five percent (5%)
33 for a total match requirement of seventeen percent (17%) for the 2015-2016 fiscal year; and
34 contributions of cash shall be equal to at least thirteen percent (13%) and in-kind donated
35 resources shall be equal to no more than six percent (6%) for a total match requirement of
36 nineteen percent (19%) for the 2016-2017 fiscal year. The North Carolina Partnership for
37 Children, Inc., may carry forward any amount in excess of the required match for a fiscal year
38 in order to meet the match requirement of the succeeding fiscal year. Only in-kind
39 contributions that are quantifiable shall be applied to the in-kind match requirement. Volunteer
40 services may be treated as an in-kind contribution for the purpose of the match requirement of
41 this subsection. Volunteer services that qualify as professional services shall be valued at the
42 fair market value of those services. All other volunteer service hours shall be valued at the
43 statewide average wage rate as calculated from data compiled by the Division of Employment
44 Security of the Department of Commerce in the Employment and Wages in North Carolina
45 Annual Report for the most recent period for which data are available. Expenses, including
46 both those paid by cash and in-kind contributions, incurred by other participating non-State
47 entities contracting with the North Carolina Partnership for Children, Inc., or the local
48 partnerships, also may be considered resources available to meet the required private match. In
49 order to qualify to meet the required private match, the expenses shall:

- 50 (1) Be verifiable from the contractor's records.

- (2) If in-kind, other than volunteer services, be quantifiable in accordance with generally accepted accounting principles for nonprofit organizations.
- (3) Not include expenses funded by State funds.
- (4) Be supplemental to and not supplant preexisting resources for related program activities.
- (5) Be incurred as a direct result of the Early Childhood Initiatives Program and be necessary and reasonable for the proper and efficient accomplishment of the Program's objectives.
- (6) Be otherwise allowable under federal or State law.
- (7) Be required and described in the contractual agreements approved by the North Carolina Partnership for Children, Inc., or the local partnership.
- (8) Be reported to the North Carolina Partnership for Children, Inc., or the local partnership by the contractor in the same manner as reimbursable expenses.

Failure to obtain a seventeen-percent (17%) match by June 30 of the 2015-2016 fiscal year and a nineteen-percent (19%) match by June 30 of the 2016-2017 fiscal year shall result in a dollar-for-dollar reduction in the appropriation for the Program for a subsequent fiscal year. The North Carolina Partnership for Children, Inc., shall be responsible for compiling information on the private cash and in-kind contributions into a report that is submitted to the Joint Legislative Oversight Committee on Health and Human Services in a format that allows verification by the Department of Revenue. The same match requirements shall apply to any expansion funds appropriated by the General Assembly.

SECTION 12B.7.(e) Bidding. – The North Carolina Partnership for Children, Inc., and all local partnerships shall use competitive bidding practices in contracting for goods and services on contract amounts as follows:

- (1) For amounts of five thousand dollars (\$5,000) or less, the procedures specified by a written policy as developed by the Board of Directors of the North Carolina Partnership for Children, Inc.
- (2) For amounts greater than five thousand dollars (\$5,000), but less than fifteen thousand dollars (\$15,000), three written quotes.
- (3) For amounts of fifteen thousand dollars (\$15,000) or more, but less than forty thousand dollars (\$40,000), a request for proposal process.
- (4) For amounts of forty thousand dollars (\$40,000) or more, a request for proposal process and advertising in a major newspaper.

SECTION 12B.7.(f) Allocations. – The North Carolina Partnership for Children, Inc., shall not reduce the allocation for counties with less than 35,000 in population below the 2012-2013 funding level.

SECTION 12B.7.(g) Performance-Based Evaluation. – The Department of Health and Human Services shall continue to implement the performance-based evaluation system.

SECTION 12B.7.(h) Expenditure Restrictions. – The Department of Health and Human Services and the North Carolina Partnership for Children, Inc., shall ensure that the allocation of funds for Early Childhood Education and Development Initiatives for the 2015-2017 fiscal biennium shall be administered and distributed in the following manner:

- (1) Capital expenditures are prohibited for the 2015-2017 fiscal biennium. For the purposes of this section, "capital expenditures" means expenditures for capital improvements as defined in G.S. 143C-1-1(d)(5).
- (2) Expenditures of State funds for advertising and promotional activities are prohibited for the 2015-2017 fiscal biennium.

For the 2015-2017 fiscal biennium, local partnerships shall not spend any State funds on marketing campaigns, advertising, or any associated materials. Local partnerships may spend any private funds the local partnerships receive on those activities.

1 **PLAN FOR MERGER OF EARLY EDUCATION AND FAMILY SUPPORT**
2 **PROGRAMS**

3 **SECTION 12B.8.** The Joint Legislative Program Evaluation Oversight Committee
4 shall include in the 2015-2017 Work Plan a directive for the Program Evaluation Division to
5 plan a merger of the Child Care Subsidy, NC Prekindergarten (NC Pre-K), and Smart Start
6 programs. The Director of the Program Evaluation Division shall recommend a firm for
7 approval by the Legislative Services Commission to prepare the plan under the supervision of
8 the Program Evaluation Division. The sum of three hundred thousand dollars (\$300,000) is
9 hereby appropriated to the Legislative Services Commission from the General Fund for the
10 2015-2016 fiscal year in nonrecurring funds to pay for the contract. The Program Evaluation
11 Division shall submit the merger plan prepared by the contractor to the Joint Legislative
12 Program Evaluation Oversight Committee, the Joint Legislative Oversight Committee on
13 Health and Human Services, the Joint Legislative Education Oversight Committee, and the
14 Fiscal Research Division no later than March 1, 2016.

15
16 **U.S. DEPARTMENT OF DEFENSE-CERTIFIED CHILD CARE FACILITIES**
17 **PARTICIPATION IN STATE-SUBSIDIZED CHILD CARE PROGRAM**

18 **SECTION 12B.9.(a)** Article 7 of Chapter 110 of the General Statutes is amended
19 by adding a new section to read:

20 **"§ 110-106.2. Department of Defense-certified child care facilities.**

21 (a) As used in this section, the phrase "Department of Defense-certified child care
22 facility" shall include child development centers, family child care homes, and school-aged
23 child care facilities operated aboard a military installation under the authorization of the United
24 States Department of Defense (Department of Defense) certified by the Department of Defense.

25 (b) Procedure Regarding Department of Defense-Certified Child Care Facilities. –

26 (1) Department of Defense-certified child care facilities shall file with the
27 Department a notice of intent to operate a child care facility in a form
28 determined by the Department of Defense.

29 (2) As part of its notice, each Department of Defense-certified child care facility
30 shall file a report to the Department indicating that it meets the minimum
31 standards for child care facilities as provided by the Department of Defense.

32 (3) Department of Defense-certified child care facilities that meet all the
33 requirements of this section shall be exempt from all other requirements of
34 this Article and shall not be subject to licensure.

35 (4) For purposes of the North Carolina Subsidized Child Care Program,
36 Department of Defense-certified child care facilities shall be reimbursed as
37 follows:

38 a. Department of Defense-certified child care facilities that are
39 accredited by the National Association for the Education of Young
40 Children (NAEYC) shall be reimbursed at the five-star-rated license
41 rate.

42 b. All other Department of Defense-certified child care facilities shall
43 be reimbursed at the four-star-rated license rate."

44 **SECTION 12B.9.(b)** G.S. 143B-168.15(g) reads as rewritten:

45 "(g) Not less than thirty percent (30%) of the funds spent in each year of each local
46 partnership's direct services allocation shall be used to expand child care subsidies. To the
47 extent practicable, these funds shall be used to enhance the affordability, availability, and
48 quality of child care services as described in this section. The North Carolina Partnership may
49 increase this percentage requirement up to a maximum of fifty percent (50%) when, based upon
50 a significant local waiting list for subsidized child care, the North Carolina Partnership
51 determines a higher percentage is justified. Local partnerships shall spend an amount for child

1 care subsidies that provides at least fifty-two million dollars (\$52,000,000) for the Temporary
2 Assistance to Needy Families (TANF) maintenance of effort requirement and the Child Care
3 Development Fund and Block Grant match requirement. Funds allocated under this section
4 shall supplement and not supplant any federal or State funds allocated to Department of
5 Defense-certified child care facilities licensed under G.S. 110-106.2."

6 **SECTION 12B.9.(c)** Department of Defense-certified child care facilities licensed
7 pursuant to G.S. 110-106.2, as enacted in subsection (a) of this section, may participate in the
8 State-subsidized child care program that provides for the purchase of care in child care facilities
9 for minor children in needy families; provided, that funds allocated from the State-subsidized
10 child care program to Department of Defense-certified child care facilities shall supplement and
11 not supplant funds allocated in accordance with G.S. 143B-168.15(g). Payment rates and fees
12 for military families who choose Department of Defense-certified child care facilities and who
13 are eligible to receive subsidized child care shall be as set forth in Section 12B.2 of this act.

14 **SECTION 12B.9.(d)** This section becomes effective January 1, 2016.

15

16 **SUBPART XII-C. DIVISION OF SOCIAL SERVICES**

17

18 **TANF BENEFIT IMPLEMENTATION**

19 **SECTION 12C.1.(a)** The General Assembly approves the plan titled "North
20 Carolina Temporary Assistance for Needy Families State Plan FY 2013-2016," prepared by the
21 Department of Health and Human Services and presented to the General Assembly. The North
22 Carolina Temporary Assistance for Needy Families State Plan covers the period October 1,
23 2013, through September 30, 2016. The Department shall submit the State Plan, as revised in
24 accordance with subsection (b) of this section, to the United States Department of Health and
25 Human Services.

26 **SECTION 12C.1.(b)** The counties approved as Electing Counties in the North
27 Carolina Temporary Assistance for Needy Families State Plan FY 2013-2016, as approved by
28 this section, are Beaufort, Caldwell, Catawba, Lenoir, Lincoln, Macon, and Wilson.

29 **SECTION 12C.1.(c)** Counties that submitted the letter of intent to remain as an
30 Electing County or to be redesignated as an Electing County and the accompanying county plan
31 for years 2013 through 2016, pursuant to G.S. 108A-27(e), shall operate under the Electing
32 County budget requirements effective July 1, 2015. For programmatic purposes, all counties
33 referred to in this subsection shall remain under their current county designation through
34 September 30, 2016.

35 **SECTION 12C.1.(d)** For each year of the 2015-2017 fiscal biennium, Electing
36 Counties shall be held harmless to their Work First Family Assistance allocations for the
37 2014-2015 fiscal year, provided that remaining funds allocated for Work First Family
38 Assistance and Work First Diversion Assistance are sufficient for payments made by the
39 Department on behalf of Standard Counties pursuant to G.S. 108A-27.11(b).

40 **SECTION 12C.1.(e)** In the event that departmental projections of Work First
41 Family Assistance and Work First Diversion Assistance for the 2015-2016 fiscal year or the
42 2016-2017 fiscal year indicate that remaining funds are insufficient for Work First Family
43 Assistance and Work First Diversion Assistance payments to be made on behalf of Standard
44 Counties, the Department is authorized to deallocate funds, of those allocated to Electing
45 Counties for Work First Family Assistance in excess of the sums set forth in G.S. 108A-27.11,
46 up to the requisite amount for payments in Standard Counties. Prior to deallocation, the
47 Department shall obtain approval by the Office of State Budget and Management. If the
48 Department adjusts the allocation set forth in subsection (d) of this section, then a report shall
49 be made to the Joint Legislative Oversight Committee on Health and Human Services and the
50 Fiscal Research Division.

51

INTENSIVE FAMILY PRESERVATION SERVICES FUNDING AND PERFORMANCE ENHANCEMENTS

SECTION 12C.2.(a) Notwithstanding the provisions of G.S. 143B-150.6, the Intensive Family Preservation Services (IFPS) Program shall provide intensive services to children and families in cases of abuse, neglect, and dependency where a child is at imminent risk of removal from the home and to children and families in cases of abuse where a child is not at imminent risk of removal. The Program shall be developed and implemented statewide on a regional basis. The IFPS shall ensure the application of standardized assessment criteria for determining imminent risk and clear criteria for determining out-of-home placement.

SECTION 12C.2.(b) The Department of Health and Human Services shall require that any program or entity that receives State, federal, or other funding for the purpose of IFPS shall provide information and data that allows for the following:

- (1) An established follow-up system with a minimum of six months of follow-up services.
- (2) Detailed information on the specific interventions applied, including utilization indicators and performance measurement.
- (3) Cost-benefit data.
- (4) Data on long-term benefits associated with IFPS. This data shall be obtained by tracking families through the intervention process.
- (5) The number of families remaining intact and the associated interventions while in IFPS and 12 months thereafter.
- (6) The number and percentage, by race, of children who received IFPS compared to the ratio of their distribution in the general population involved with Child Protective Services.

SECTION 12C.2.(c) The Department shall establish a performance-based funding protocol and shall only provide funding to those programs and entities providing the required information specified in subsection (b) of this section. The amount of funding shall be based on the individual performance of each program.

CHILD CARING INSTITUTIONS

SECTION 12C.3. Until the Social Services Commission adopts rules setting standardized rates for child caring institutions as authorized under G.S. 143B-153(8), the maximum reimbursement for child caring institutions shall not exceed the rate established for the specific child caring institution by the Department of Health and Human Services, Office of the Controller. In determining the maximum reimbursement, the State shall include county and IV-E reimbursements.

USE OF FOSTER CARE BUDGET FOR GUARDIANSHIP ASSISTANCE PROGRAM

SECTION 12C.4. Of the funds available for the provision of foster care services, the Department of Health and Human Services, Division of Social Services, may provide for the financial support of children who are deemed to be (i) in a permanent family placement setting, (ii) eligible for legal guardianship, and (iii) otherwise unlikely to receive permanency. The Division of Social Services shall design the Guardianship Assistance Program (GAP) to include provisions for extending guardianship services for individuals who have attained the age of 18 years and opt to continue to receive guardianship services until reaching 21 years of age if the individual is (i) completing secondary education or a program leading to an equivalent credential, (ii) enrolled in an institution that provides postsecondary or vocational education, (iii) participating in a program or activity designed to promote, or remove barriers to, employment, (iv) employed for at least 80 hours per month, or (v) incapable of completing the educational or employment requirements of this section due to a medical condition or disability. The Guardianship Assistance Program rates shall reimburse the legal guardian for

1 room and board and be set at the same rate as the foster care room and board rates in
2 accordance with rates established under G.S. 108A-49.1. The Social Services Board shall adopt
3 rules establishing a Guardianship Assistance Program to implement this section, including
4 defining the phrase "legal guardian" as used in this section.
5

6 **CHILD WELFARE POSTSECONDARY SUPPORT PROGRAM (NC REACH)**

7 **SECTION 12C.5.(a)** Funds appropriated from the General Fund to the Department
8 of Health and Human Services for the child welfare postsecondary support program shall be
9 used to continue providing assistance with the "cost of attendance" as that term is defined in 20
10 U.S.C. § 108711 for the educational needs of foster youth aging out of the foster care system
11 and special needs children adopted from foster care after age 12. These funds shall be allocated
12 by the State Education Assistance Authority.

13 **SECTION 12C.5.(b)** Of the funds appropriated from the General Fund to the
14 Department of Health and Human Services, the sum of fifty thousand dollars (\$50,000) for the
15 2015-2016 fiscal year and the sum of fifty thousand dollars (\$50,000) for the 2016-2017 fiscal
16 year shall be allocated to the North Carolina State Education Assistance Authority (SEAA).
17 The SEAA shall use these funds only to perform administrative functions necessary to manage
18 and distribute scholarship funds under the child welfare postsecondary support program.

19 **SECTION 12C.5.(c)** Of the funds appropriated from the General Fund to the
20 Department of Health and Human Services, the sum of three hundred thirty-nine thousand four
21 hundred ninety-three dollars (\$339,493) for the 2015-2016 fiscal year and the sum of three
22 hundred thirty-nine thousand four hundred ninety-three dollars (\$339,493) for the 2016-2017
23 fiscal year shall be used to contract with an entity to administer the child welfare postsecondary
24 support program described under subsection (a) of this section, which administration shall
25 include the performance of case management services.

26 **SECTION 12C.5.(d)** Funds appropriated to the Department of Health and Human
27 Services for the child welfare postsecondary support program shall be used only for students
28 attending public institutions of higher education in this State.
29

30 **FEDERAL CHILD SUPPORT INCENTIVE PAYMENTS**

31 **SECTION 12C.7.(a)** Centralized Services. – The North Carolina Child Support
32 Services Section (NCCSS) of the Department of Health and Human Services, Division of
33 Social Services, shall retain up to fifteen percent (15%) of the annual federal incentive
34 payments it receives from the federal government to enhance centralized child support services.
35 To accomplish this requirement, NCCSS shall do the following:

- 36 (1) In consultation with representatives from county child support services
37 programs, identify how federal incentive funding could improve centralized
38 services.
- 39 (2) Use federal incentive funds to improve the effectiveness of the State's
40 centralized child support services by supplementing and not supplanting
41 State expenditures for those services.
- 42 (3) Develop and implement rules that explain the State process for calculating
43 and distributing federal incentive funding to county child support services
44 programs.

45 **SECTION 12C.7.(b)** County Child Support Services Programs. – NCCSS shall
46 allocate no less than eighty-five percent (85%) of the annual federal incentive payments it
47 receives from the federal government to county child support services programs to improve
48 effectiveness and efficiency using the federal performance measures. To that end, NCCSS shall
49 do the following:

- 50 (1) In consultation with representatives from county child support services
51 programs, examine the current methodology for distributing federal

1 incentive funding to the county programs and determine whether an
2 alternative formula would be appropriate. NCCSS shall use its current
3 formula for distributing federal incentive funding until an alternative
4 formula is adopted.

- 5 (2) Upon adopting an alternative formula, develop a process to phase-in the
6 alternative formula for distributing federal incentive funding over a
7 four-year period.

8 **SECTION 12C.7.(c)** Reporting by County Child Support Services Programs. –
9 NCCSS shall establish guidelines that identify appropriate uses for federal incentive funding.
10 To ensure those guidelines are properly followed, NCCSS shall require county child support
11 services programs to comply with each of the following:

- 12 (1) Submit an annual plan describing how federal incentive funding would
13 improve program effectiveness and efficiency as a condition of receiving
14 federal incentive funding.
15 (2) Report annually on: (i) how federal incentive funding has improved program
16 effectiveness and efficiency and been reinvested into their programs, (ii)
17 provide documentation that the funds were spent according to their annual
18 plans, and (iii) explain any deviations from their plans.

19 **SECTION 12C.7.(d)** Plan/Report by NCCSS. – The NCCSS shall develop a plan
20 to implement the requirements of this section. Prior to implementing the plan, NCCSS shall
21 submit a progress report on the plan to the Joint Legislative Oversight Committee on Health
22 and Human Services and the Fiscal Research Division by November 1, 2015.

23 After implementing the plan, NCCSS shall submit a report on federal child support
24 incentive funding to the Joint Legislative Oversight Committee on Health and Human Services
25 and the Fiscal Research Division by November 1 of each year. The report shall describe how
26 federal incentive funds enhanced centralized child support services to benefit county child
27 support services programs and improved the effectiveness and efficiency of county child
28 support services programs. The report shall further include any changes to the State process the
29 NCCSS used in calculating and distributing federal incentive funding to county child support
30 services programs and any recommendations for further changes.

31
32 **CHILD PROTECTIVE SERVICES IMPROVEMENT INITIATIVE/REVISE**
33 **STATEWIDE EVALUATION REPORT DATE**

34 **SECTION 12C.8.** The Department of Health and Human Services, Division of
35 Social Services, shall report on the findings and recommendations from the comprehensive,
36 statewide evaluation of the State's child protective services system required by Section 12C.1(f)
37 of S.L. 2014-100 to the Joint Legislative Oversight Committee on Health and Human Services
38 on or before March 1, 2016.

39
40 **FOSTERING SUCCESS/EXTEND FOSTER CARE TO 21 YEARS OF AGE**

41 **SECTION 12C.9.(a)** G.S. 108A-48 reads as rewritten:

42 **"§ 108A-48. State Foster Care Benefits Program.**

43 (a) The Department is authorized to establish a State Foster Care Benefits Program with
44 appropriations by the General Assembly for the purpose of providing assistance to children
45 who are placed in foster care facilities by county departments of social services in accordance
46 with the rules and regulations of the Social Services Commission. Such appropriations, together
47 with county contributions for this purpose, shall be expended to provide for the costs of
48 keeping children in foster care facilities.

49 (b) ~~No benefits provided by this section shall be granted to any individual who has~~
50 ~~passed his eighteenth birthday unless he is less than 21 years of age and is a full-time student or~~
51 ~~has been accepted for enrollment as a full-time student for the next school term pursuing a high~~

1 school diploma or its equivalent; a course of study at the college level; or a course of vocational
2 or technical training designed to fit him for gainful employment.

3 (c) The Department may continue to provide benefits pursuant to this section to an
4 individual who has attained the age of 18 years and chosen to continue receiving foster care
5 services until reaching 21 years of age if the individual is (i) completing secondary education or
6 a program leading to an equivalent credential, (ii) enrolled in an institution that provides
7 postsecondary or vocational education, (iii) participating in a program or activity designed to
8 promote, or remove barriers to, employment, (iv) employed for at least 80 hours per month, or
9 (v) incapable of completing the educational or employment requirements of this subsection due
10 to a medical condition or disability.

11 (d) With monthly supervision and oversight by the director of the county department of
12 social services or a supervising agency, an individual receiving benefits pursuant to subsection
13 (c) of this section may reside outside a foster care facility in a college or university dormitory
14 or other semi-supervised housing arrangement approved by the director of the county
15 department of social services and continue to receive benefits pursuant to this section."

16 **SECTION 12C.9.(b)** G.S. 108A-49 is amended by adding a new subsection to
17 read:

18 "(e) If all other eligibility criteria are met, adoption assistance payments may continue
19 until the beneficiary reaches the age of 21 if the beneficiary was adopted after reaching the age
20 of 16 but prior to reaching the age of 18."

21 **SECTION 12C.9.(c)** G.S. 108A-49.1 reads as rewritten:
22 **"§ 108A-49.1. Foster care and adoption assistance payment rates.**

23 (a) The maximum rates for State participation in the foster care assistance program are
24 established on a graduated scale as follows:

- 25 (1) \$475.00 per child per month for children from birth through five years of
26 age.
- 27 (2) \$581.00 per child per month for children six through 12 years of age.
- 28 (3) \$634.00 per child per month for children at least 13 through 18 but less than
29 21 years of age.

30 (b) The maximum rates for the State adoption assistance program are established
31 consistent with the foster care rates as follows:

- 32 (1) \$475.00 per child per month for children from birth through five years of
33 age.
- 34 (2) \$581.00 per child per month for children six through 12 years of age.
- 35 (3) \$634.00 per child per month for children at least 13 through 18 but less than
36 21 years of age.

37 (c) The maximum rates for the State participation in human immunodeficiency virus
38 (HIV) foster care and adoption assistance are established on a graduated scale as follows:

- 39 (1) \$800.00 per child per month with indeterminate HIV status.
- 40 (2) \$1,000 per child per month with confirmed HIV infection, asymptomatic.
- 41 (3) \$1,200 per child per month with confirmed HIV infection, symptomatic.
- 42 (4) \$1,600 per child per month when the child is terminally ill with complex
43 care needs.

44 In addition to providing board payments to foster and adoptive families of HIV-infected
45 children, any additional funds remaining that are appropriated for purposes described in this
46 subsection shall be used to provide medical training in avoiding HIV transmission in the home.

47 (d) The State and a county participating in foster care and adoption assistance shall each
48 contribute fifty percent (50%) of the nonfederal share of the cost of care for a child placed by a
49 county department of social services or child-placing agency in a family foster home or
50 residential child care facility. A county shall be held harmless from contributing fifty percent
51 (50%) of the nonfederal share of the cost for a child placed in a family foster home or

1 residential child care facility under an agreement with that provider as of October 31, 2008,
2 until the child leaves foster care or experiences a placement change.

3 (e) A county shall be held harmless from contributing fifty percent (50%) of the
4 nonfederal share of the cost for an individual receiving benefits pursuant to G.S. 108A-48(c)."

5 **SECTION 12C.9.(d)** G.S. 131D-10.2 reads as rewritten:

6 **"§ 131D-10.2. Definitions.**

7 For purposes of this Article, unless the context clearly implies otherwise:

8 ...
9 (3) "Child" means an individual less than ~~18-21~~ years of age, who has not been
10 emancipated under the provisions of Article 35 of Chapter 7B of the General
11 Statutes.

12 ...
13 (9a) "Foster Parent" means any individual who is ~~18-21~~ years of age or older who
14 is licensed by the State to provide foster care.

15"

16 **SECTION 12C.9.(e)** Part 1 of Article 1A of Chapter 131D of the General Statutes
17 is amended by adding a new section to read:

18 **"§ 131D-10.2A. Foster care until 21 years of age.**

19 (a) A child placed in foster care who has attained the age of 18 years may continue
20 receiving foster care services until reaching 21 years of age as provided by law. A child who
21 initially chooses to opt out of foster care upon attaining the age of 18 years may opt to receive
22 foster care services at a later date until reaching 21 years of age.

23 (b) A child who has attained the age of 18 years and chosen to continue receiving foster
24 care services until reaching 21 years of age may continue to receive benefits pursuant to Part 4
25 of Article 2 of Chapter 108A of the General Statutes upon meeting the requirements under
26 G.S. 108A-48(c)."

27 **SECTION 12C.9.(f)** G.S. 131D-10.5 reads as rewritten:

28 **"§ 131D-10.5. Powers and duties of the Commission.**

29 In addition to other powers and duties prescribed by law, the Commission shall exercise the
30 following powers and duties:

- 31 (1) Adopt, amend and repeal rules consistent with the laws of this State and the
32 laws and regulations of the federal government to implement the provisions
33 and purposes of this ~~Article;~~Article.
- 34 (2) Issue declaratory rulings as may be needed to implement the provisions and
35 purposes of this ~~Article;~~Article.
- 36 (3) Adopt rules governing procedures to appeal Department decisions pursuant
37 to this Article granting, denying, suspending or revoking ~~licenses;~~licenses.
- 38 (4) Adopt criteria for waiver of licensing rules adopted pursuant to this
39 ~~Article;~~Article.
- 40 (5) Adopt rules on documenting the use of physical restraint in residential
41 child-care ~~facilities;~~facilities.
- 42 (6) Adopt rules establishing personnel and training requirements related to the
43 use of physical restraints and time-out for staff employed in residential
44 child-care ~~facilities;~~andfacilities.
- 45 (7) Adopt rules establishing educational requirements, minimum age, relevant
46 experience, and criminal record status for executive directors and staff
47 employed by child placing agencies and residential child care facilities.
- 48 (8) Adopt any rules necessary for the expansion of foster care for individuals
49 who have attained the age of 18 years and chosen to continue receiving
50 foster care services to 21 years of age in accordance with G.S. 131D-10.2A."

1 **SECTION 12C.9.(g)** Article 9 of Chapter 7B of the General Statutes is amended
2 by adding a new section to read:

3 **"§ 7B-910.1. Review of voluntary foster care placements with young adults.**

4 (a) The court shall review the placement of a young adult in foster care authorized by
5 G.S. 108A-48(c) when the director of social services and a young adult who was in foster care
6 as a juvenile enter into a voluntary placement agreement. The review hearing shall be held not
7 more than 90 days from the date the agreement was executed, and the court shall make findings
8 from evidence presented at this review hearing with regard to all of the following:

9 (1) Whether the placement is in the best interest of the young adult in foster
10 care.

11 (2) The services that have been or should be provided to the young adult in
12 foster care to improve the placement.

13 (3) The services that have been or should be provided to the young adult in
14 foster care to further the young adult's educational or vocational ambitions, if
15 relevant.

16 (b) Upon written request of the young adult or the director of social services, the court
17 may schedule additional hearings to monitor the placement and progress toward the young
18 adult's educational or vocational ambitions.

19 (c) No guardian ad litem under G.S. 7B-601 will be appointed to represent the young
20 adult in the initial or any subsequent hearing.

21 (d) The clerk shall give written notice of the initial and any subsequent review hearings
22 to the young adult and foster care and the director of social services at least 15 days prior to the
23 date of the hearing."

24 **SECTION 12C.9.(h)** G.S. 7B-401.1 is amended by adding a new subsection to
25 read:

26 "(i) Young Adult in Foster Care. – In proceedings held pursuant to G.S. 7B-910.1, the
27 young adult in foster care and the director of the department of social services are parties."

28 **SECTION 12C.9.(i)** The Department of Health and Human Services, Division of
29 Social Services (Division), shall develop a plan for the expansion of foster care services for
30 individuals who have attained the age of 18 years and opt to continue receiving foster care
31 services until reaching 21 years of age. The Division shall report on the plan to the Joint
32 Legislative Oversight Committee on Health and Human Services and the Fiscal Research
33 Division by October 1, 2015. The Division shall report on the plan as implemented to the Joint
34 Legislative Oversight Committee on Health and Human Services and the Fiscal Research
35 Division by November 1, 2016.

36 **SECTION 12C.9.(j)** No later than 60 days after the Department implements the
37 plan for the expansion of foster care services as required under subsection (i) of this section, the
38 Division shall submit a State plan amendment to the U.S. Department of Health and Human
39 Services Administration for Children and Families to make federal payments for foster care and
40 adoption assistance, as applicable, under Title IV-E, available to a person meeting the
41 requirements of G.S. 108A-48(c), as enacted in subsection (a) of this section.

42 **SECTION 12C.9.(k)** Any agreement entered into pursuant to G.S. 108A-48(b)
43 prior to the effective date of subsection (a) of this section shall remain in full force and effect,
44 and no provision of this section shall be construed to affect or alter such an agreement.

45 **SECTION 12C.9.(l)** Subsection (a) of this section becomes effective August 1,
46 2016, and applies to agreements entered into on or after that date. Subsections (i), (j), and (k) of
47 this section are effective when they become law. The remainder of this section becomes
48 effective August 1, 2016.

49
50 **REQUIRE TRANSFER OF CERTAIN SERVICES TO EASTERN BAND OF**
51 **CHEROKEE INDIANS**

1 **SECTION 12C.10.(a)** G.S. 108A-25 reads as rewritten:
2 "**§ 108A-25. Creation of programs; assumption by federally recognized tribe of**
3 **programs.**

4 ...

5 (e) When any federally recognized Native American tribe within the State assumes
6 responsibility for any social services, Medicaid and NC Health Choice healthcare benefit
7 programs, and ancillary services, including Medicaid administrative and service functions, that
8 are otherwise the responsibility of a county under State law, then, notwithstanding any other
9 provision of law, the county shall be relieved of the legal responsibility related to the tribe's
10 assumption of those services. With respect to a tribe's assumption of any responsibilities for
11 administration of any aspects of the NC Medicaid program, NC Health Choice, and the
12 Supplemental Nutrition Assistance Program (SNAP), the State and the tribe shall execute an
13 agreement to set forth the general terms, definitions, and conditions by which the parties shall
14 operate. Upon the execution of the agreement, to allow the tribe to assume certain duties and
15 responsibilities for the administration of the NC Medicaid program, NC Health Choice, and
16 SNAP, the agreement between the State and the tribe shall require the tribe to accept the
17 oversight authority of the State and the Department of Health and Human Services
18 (Department) in the administration and supervision of these programs. In addition to the other
19 necessary terms and conditions, the agreement shall include the following conditions:

20 (1) All requirements as prescribed by federal law, as well as the tribe and State's
21 responsibilities in complying with federal law, including, but not limited to,
22 any specific provisions pertaining to accounting and auditing compliance,
23 maintenance of liability insurance, confidentiality, reporting requirements,
24 indemnity, waiver of immunity, or due process.

25 (2) As the Department is the federally recognized single State agency for the NC
26 Medicaid program, NC Health Choice, and SNAP, provisions stating the
27 Department retains ultimate administrative discretion in the administration
28 and supervision of the program, including, but not limited to, issuance and
29 interpretation of all applicable policies, rules, and regulations regarding
30 application processing, eligibility determinations and redeterminations, and
31 other functions related to the eligibility process.

32 (3) Provisions by the tribe to ensure that individuals who will be responsible for
33 the tribe's duties and responsibilities under this agreement shall be employed
34 under standards equivalent to current standards for a Merit System of
35 Personnel Administration or any standards later prescribed by the Office of
36 Personnel Management under section 208 of the Intergovernmental
37 Personnel Act of 1970 and shall provide the Department with information
38 for verification of this condition.

39 (4) Either party may terminate the agreement without cause with at least 30
40 days' notice prior to the date the terminating party seeks to terminate the
41 agreement. The Department may terminate all or part of the agreement when
42 federal or State funding becomes unavailable for any reason.

43 (f) With respect to programs federally administered by the Administration for Children
44 and Families (ACF), the Department shall maintain oversight authority for all federal
45 protections to individuals living on federal reservations held in trust by the United States until
46 such time as ACF has approved the Eastern Band of Cherokee Indians to administer these
47 programs."

48 **SECTION 12C.10.(b)** G.S. 108A-87(c) reads as rewritten:

49 "(c) Notwithstanding subsections (a) and (b) of this section, when the Eastern Band of
50 Cherokee Indians assumes responsibility for a program described under G.S. 108A-25(e), the
51 following shall occur:

1 (1) Nonfederal matching funds designated to Jackson and Swain counties to
2 serve the Eastern Band of Cherokee Indians for that program previously
3 borne by the State shall be allocated directly to the Eastern Band of
4 Cherokee Indians rather than to those ~~counties~~ counties and shall not exceed
5 the amount expended by the State for fiscal year 2014-2015 for programs or
6 services assumed by the Eastern Band of Cherokee Indians, as applicable,
7 plus the growth rate equal to the growth in State-funded nonfederal share for
8 all counties.

9 (2) Any portion of nonfederal matching funds borne by counties for public
10 assistance and social services programs and related administrative costs shall
11 be borne by the Eastern Band of Cherokee Indians."

12 **SECTION 12C.10.(c)** Of the funds appropriated in this act from the General Fund
13 to the Department of Health and Human Services, Division of Social Services, the sum of three
14 hundred sixty thousand dollars (\$360,000) in recurring funds for fiscal year 2015-2016 and the
15 sum of three million two hundred thousand dollars (\$3,200,000) in nonrecurring funds for
16 fiscal year 2015-2016 shall be deposited in the Department's information technology budget
17 code to be used for ongoing operation and maintenance pursuant to implementing the
18 provisions of this section.

19 **SECTION 12C.10.(d)** Approval for the tribe to administer the eligibility process
20 for Medicaid and NC Health Choice is contingent upon federal approval of a state plan
21 amendment and Medicaid waivers by the Centers for Medicare and Medicaid Services (CMS).
22 The Department of Health and Human Services, Division of Medical Assistance, shall make
23 any necessary amendments to its previous SPA 14-001, including amendment of its effective
24 date. The new effective date shall be October 1, 2016. If CMS does not approve the SPA, the
25 counties shall continue serving individuals living on the federal lands held in trust by the
26 United States.

27 **SECTION 12C.10.(e)** Within 30 days of CMS approval of the amended SPA
28 14-001, the Department of Health and Human Services shall submit an Advanced Planning
29 Document Update (APDU) to CMS, the United States Department of Agriculture (USDA), and
30 the Administration for Children and Families (ACF). If CMS, USDA, and ACF do not approve
31 the APDU, the counties shall continue serving individuals living on the federal lands held in
32 trust by the United States.

33 **SECTION 12C.10.(f)** Upon CMS, USDA, and ACF approval of the APDU, the
34 Department of Health and Human Services (Department) shall begin functional and detailed
35 design, development, testing, and training of NC FAST, NCTracks, and legacy systems to
36 allow the Eastern Band of Cherokee Indians to assume certain administrative duties consistent
37 with approval given by federal funding partners and any agreements between the Eastern Band
38 of Cherokee Indians and the Department.

39 **SECTION 12C.10.(g)** If federal law allows the Eastern Band of Cherokee Indians
40 to assume responsibility for the NC Medicaid program, NC Health Choice, or SNAP, the
41 Eastern Band of Cherokee Indians shall be allowed to assume responsibility for those programs
42 if they choose to assume such responsibility.

43 44 **CHILD PROTECTIVE SERVICES PILOT PROJECT**

45 **SECTION 12C.11.(a)** Of the funds appropriated in this act to the Department of
46 Health and Human Services, Division of Social Services, the sum of three hundred thousand
47 dollars (\$300,000) shall be used for the continuation of the Child Protective Services Pilot
48 Project established by Section 12C.1(e) of S.L. 2014-100. The Division shall continue to
49 collaborate with the Government Data Analytics Center (GDAC) and shall utilize the funds to
50 support and enhance the Pilot by doing the following:

51 (1) Developing a dashboard linking the family to the child.

- 1 (2) Integrating additional Department of Health and Human Services and other
2 State department data sources to build a more comprehensive view of the
3 child and family, including (i) matching the child to the caretaker; (ii)
4 linking child, family, and address information; and (iii) integrating Criminal
5 Justice Law Enforcement Automated Data Services (CJLEADS) data to
6 determine if the caretaker or someone living in the house is a sex offender or
7 has a criminal history.
- 8 (3) Developing a comprehensive profile of a child that includes demographic
9 and caretaker information and indicators or flags of other services, including,
10 but not limited to, prior assessments of the child, eligibility for food and
11 nutrition programs, Medicaid, and subsidized child care.

12 **SECTION 12C.11.(b)** The Division of Social Services shall interface the work
13 product from the Child Protective Services Pilot Program with the statewide child welfare case
14 management system operated by the Department of Health and Human Services by utilizing
15 resources and subject matter expertise available through existing public-private partnerships
16 within the GDAC for the purposes of analyzing risk and improving outcomes for children. The
17 Division of Social Services shall submit its findings and recommendations in a final report on
18 the Child Protective Services Pilot Program to the Joint Legislative Oversight Committee on
19 Health and Human Services no later than March 1, 2016.

20 **FOSTER CARE FAMILY ACT**

21 **SECTION 12C.12.(a)** This section shall be known and may be cited as the "Foster
22 Care Family Act."

23 **SECTION 12C.12.(b)** Part 1 of Article 1A of Chapter 131D of the General
24 Statutes is amended by adding a new section to read:

25 **"§ 131D-10.2A. Reasonable and prudent parenting standard.**

26 (a) The reasonable and prudent parenting standard is characterized by careful and
27 sensible parental decisions that maintain a child's health, safety, and best interests while
28 encouraging the child's emotional and developmental growth.

29 (b) Every child care institution shall designate an on-site official who is authorized to
30 apply the reasonable and prudent parenting standard pursuant to this section.

31 (c) A caregiver, including the child's foster parent, whether the child is in a family
32 foster home or a therapeutic foster home, the designated official at a child care institution
33 where the child is placed, or the county department of social services, must use the reasonable
34 and prudent parenting standard when determining whether to allow a child in foster care to
35 participate in extracurricular, enrichment, and social activities.

36 (d) A caregiver, including the child's foster parent, whether the child is in a family
37 foster home or a therapeutic foster home, the designated official at a child care institution
38 where the child is placed, the county department of social services, or the Department of Health
39 and Human Services with custody of or placement authority over a child in foster care shall not
40 be held liable for an act or omission of the child if the caregiver or county department of social
41 services is acting in accordance with the reasonable and prudent parenting standard under this
42 section.

43 (e) Unless otherwise ordered by a court with jurisdiction pursuant to G.S. 7B-200, a
44 caregiver, including the child's foster parent, whether the child is in a family foster home or a
45 therapeutic foster home, exercising the reasonable and prudent parenting standard has the
46 authority to provide or withhold permission, without prior approval of the court or a county
47 department of social services, allowing a child in foster care, in the custody of a county
48 department of social services, or under the placement authority of a county department of social
49 services through a voluntary placement agreement, to participate in normal childhood activities.
50 Normal childhood activities shall include, but are not limited to, extracurricular, enrichment,
51

1 and social activities and may include overnight activities outside the direct supervision of the
2 caregiver for periods of over 24 hours and up to 72 hours.

3 (f) The caregiver, including the child's foster parent, whether the child is in a family
4 foster home or a therapeutic foster home, the designated official at a child care institution
5 where the child is placed, the county department of social services, or the Department of Health
6 and Human Services, shall not be liable for injuries to the child that occur as a result of the
7 reasonable and prudent parenting standard. The burden of proof with respect to a breach of the
8 reasonable and prudent parenting standard shall be by clear and convincing evidence.

9 (g) The caregiver, including the child's foster parent, whether the child is in a family
10 foster home or a therapeutic foster home, the designated official at a child care institution
11 where the child is placed, the county department of social services, or the Department of Health
12 and Human Services, shall be liable for any action or inaction of gross negligence, willful and
13 wanton conduct, or intentional wrongdoing that results in the injury to the child."

14 **SECTION 12C.12.(c)** G.S. 7B-505(b) reads as rewritten:

15 "(b) The court shall order the Department to make diligent efforts to notify relatives and
16 any custodial parents of the juvenile's siblings that the juvenile is in nonsecure custody and of
17 any hearings scheduled to occur pursuant to G.S. 7B-506, unless the court finds such
18 notification would be contrary to the best interests of the juvenile. In placing a juvenile in
19 nonsecure custody under this section, the court shall first consider whether a relative of the
20 juvenile is willing and able to provide proper care and supervision of the juvenile in a safe
21 home. If the court finds that the relative is willing and able to provide proper care and
22 supervision in a safe home, then the court shall order placement of the juvenile with the relative
23 unless the court finds that placement with the relative would be contrary to the best interests of
24 the juvenile."

25 **SECTION 12C.12.(d)** G.S. 7B-800.1(a)(4) reads as rewritten:

26 "(a) Prior to the adjudicatory hearing, the court shall consider the following:

27 ...

28 (4) Whether relatives or parents with custody of a sibling of the juvenile have
29 been identified and notified as potential resources for placement or support."

30 **SECTION 12C.12.(e)** G.S. 7B-901 reads as rewritten:

31 **"§ 7B-901. Dispositional hearing.**

32 The dispositional hearing shall take place immediately following the adjudicatory hearing
33 and shall be concluded within 30 days of the conclusion of the adjudicatory hearing. The
34 dispositional hearing may be informal and the court may consider written reports or other
35 evidence concerning the needs of the juvenile. The juvenile and the juvenile's parent, guardian,
36 or custodian shall have the right to present evidence, and they may advise the court concerning
37 the disposition they believe to be in the best interests of the juvenile. The court may consider
38 any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, including
39 testimony or evidence from any person who is not a party, that the court finds to be relevant,
40 reliable, and necessary to determine the needs of the juvenile and the most appropriate
41 disposition. The court may exclude the public from the hearing unless the juvenile moves that
42 the hearing be open, which motion shall be granted.

43 At the dispositional hearing, the court shall inquire as to the identity and location of any
44 missing parent and whether paternity is at issue. The court shall include findings of the efforts
45 undertaken to locate the missing parent and to serve that parent and efforts undertaken to
46 establish paternity when paternity is an issue. The order may provide for specific efforts in
47 determining the identity and location of any missing parent and specific efforts in establishing
48 paternity. The court shall also inquire about efforts made to identify and notify relatives
49 relatives or parents with custody of a sibling of the juvenile, as potential resources for
50 placement or support."

1 **SECTION 12C.12.(f)** Article 9 of Chapter 7B of the General Statutes is amended
2 by adding the following new sections to read:

3 **"§ 7B-903.1. Juvenile placed in custody of a county department of social services.**

4 (a) To the extent authorized by federal law, a county department of social services with
5 custody of a juvenile is authorized to make decisions about matters not addressed in this section
6 that are generally made by a juvenile's custodian including, but not limited to, educational
7 decisions and consenting to the sharing of the juvenile's information. The county department of
8 social services may delegate any part of this authority to the juvenile's parent, foster parent, or
9 another individual.

10 (b) When a juvenile is in the custody or placement responsibility of a county
11 department of social services, the placement provider may, in accordance with
12 G.S. 131D-10.2A, provide or withhold permission, without prior approval of the court or
13 county department of social services, allowing a juvenile to participate in normal childhood
14 activities. If such authorization is not in the juvenile's best interest, the court shall set forth
15 alternative parameters for approving normal childhood activities.

16 **"§ 7B-912. Juveniles 14 years of age and older; Another Planned Permanent Living**
17 **Arrangement.**

18 (a) In addition to the permanency planning requirements under G.S. 7B-906.1, at every
19 permanency planning hearing for a juvenile in the custody of a county department of social
20 services who has attained the age of 14 years, the court shall inquire and make written findings
21 regarding each of the following:

22 (1) The services provided to assist the juvenile in making a transition to
23 adulthood.

24 (2) The steps the county department of social services is taking to ensure that
25 the foster family or other licensed placement provider follows the reasonable
26 and prudent parenting standard as provided in G.S. 131D-10.2A.

27 (3) Whether the juvenile has regular opportunities to engage in age-appropriate
28 or developmentally appropriate activities.

29 (b) At or before the last scheduled permanency planning hearing, but at least 90 days
30 before a juvenile attains 18 years of age, the court shall (i) inquire as to whether the juvenile
31 has a copy of the juvenile's birth certificate, Social Security card, health insurance information,
32 drivers license or other identification card, and any educational or medical records the juvenile
33 requests and (ii) determine the person or entity that should assist the juvenile in obtaining these
34 documents before the juvenile attains the age of 18 years.

35 (c) If the court finds each of the following conditions applies, the court shall approve
36 Another Planned Permanent Living Arrangement (APPLA) as the juvenile's primary permanent
37 plan:

38 (1) The juvenile is 16 or 17 years old.

39 (2) The county department of social services has made diligent efforts to place
40 the juvenile permanently with a parent or relative or in a guardianship or
41 adoptive placement.

42 (3) Compelling reasons exist that it is not in the best interest of the juvenile to
43 be placed permanently with a parent or relative or in a guardianship or
44 adoptive placement.

45 (4) APPLA is the best permanency plan for the juvenile.

46 (d) If the court approves APPLA as the juvenile's permanent plan, the court shall, after
47 questioning the juvenile, make written findings addressing the juvenile's desired permanency
48 outcome."

49 **SECTION 12C.12.(g)** Article 36 of Chapter 58 of the General Statutes is amended
50 by adding a new section to read:

1 **"§ 58-36-44. Development of policy form or endorsement for personal liability insurance**
2 **for foster parents.**

3 (a) The Rate Bureau shall develop an optional policy form or endorsement to be filed
4 with the Commissioner for approval no later than May 1, 2016, that provides liability insurance
5 for foster parents licensed under Article 1A of Chapter 131D of the General Statutes to provide
6 foster care in a family foster home or therapeutic foster home. The policy form or endorsement
7 shall provide coverage for acts or omissions of the foster parent while the parent is acting in his
8 or her capacity as a foster parent in a licensed family foster home or therapeutic foster home
9 licensed under Article 1A of Chapter 131D of the General Statutes.

10 (b) Nothing in this section is intended to require that the liability insurance policy or
11 endorsement required by this section cover an act or omission that results from any action or
12 inaction of gross negligence, willful and wanton conduct, or intentional wrongdoing that results
13 in injury to the child."

14 **SECTION 12C.12.(h)** Article 1 of Chapter 48A of the General Statutes is amended
15 by adding a new section to read:

16 **"§ 48A-4. Certain minors competent to contract.**

17 A minor who is 16 years of age or older and who is in the legal custody of the county
18 department of social services shall be qualified and competent to contract for the purchase of an
19 automobile insurance policy with the consent of the court with continuing jurisdiction over the
20 minor's placement under G.S. 7B-1000(b). The minor shall be responsible for paying the costs
21 of the insurance premiums and shall be liable for damages caused by the minor's negligent
22 operation of a motor vehicle. No State or local government agency, foster parent, or entity
23 providing services to the minor under contract or at the direction of a State or local government
24 agency shall be responsible for paying any insurance premiums or liable for damages of any
25 kind as a result of the operation of a motor vehicle by the minor."

26 **SECTION 12C.12.(i)** G.S. 20-11(i) reads as rewritten:

27 "(i) Application. — An application for a permit or license authorized by this section
28 must be signed by both the applicant and another person. That person must be:

- 29 (1) The applicant's parent or guardian;
30 (2) A person approved by the applicant's parent or guardian; or
31 (3) A person approved by the Division.
32 (4) With respect to minors in the legal custody of the county department of
33 social services, any of the following:

- 34 a. A guardian ad litem or attorney advocate appointed to advocate for
35 the minor.
36 b. The director or his or her designee or other type of caseworker
37 assigned to work with the minor.
38 c. If no person listed in sub-subdivision a. or b. of this subdivision is
39 available, the court with continuing jurisdiction over the minor's
40 placement under G.S. 7B-1000(b)."

41 **SECTION 12C.12.(j)** G.S. 20-309 is amended by adding a new subsection to read:

42 "(a2) Notwithstanding any other provision of this Chapter, an owner's policy of liability
43 insurance issued to a foster parent or parents, which policy includes an endorsement excluding
44 coverage for one or more foster children residing in the foster parent's or parents' household,
45 may be certified as proof of financial responsibility, provided that each foster child for whom
46 coverage is excluded is insured in an amount equal to or greater than the minimum limits
47 required by G.S. 20-279.21 under some other owner's policy of liability insurance or a named
48 nonowner's policy of liability insurance. The North Carolina Rate Bureau shall establish, with
49 the approval of the Commissioner of Insurance, a named driver exclusion endorsement or
50 endorsements for foster children as described herein."

51 **SECTION 12C.12.(k)** G.S. 20-279.21(b) reads as rewritten:

1 "~~Such~~ Except as provided in G.S. 20-309(a2), such owner's policy of liability
2 insurance:

3 "

4 **SECTION 12C.12.(l)** The Department of Health and Human Services, Division of
5 Medical Assistance, shall design and draft, but not submit, a 1915(c) Medicaid waiver to serve
6 children with Serious Emotional Disturbance (SED) in home and community-based settings.
7 The Department may submit drafts of the waiver to the Centers for Medicare and Medicaid
8 Services (CMS) to solicit feedback but shall not submit the waiver for CMS approval until
9 authorized by the General Assembly.

10 **SECTION 12C.12.(m)** The Department shall report, on the draft waiver required
11 by subsection (l) of this section, other findings and any other options or recommendations to
12 best serve children with SED to the Joint Legislative Oversight Committee on Health and
13 Human Services by December 1, 2015. Specifically, the report shall provide an in-depth
14 analysis of the cost per slot, including an analysis of the estimated number of waiver recipients
15 who would be transitioned from a facility to a home and community-based setting and the
16 estimated number of waiver recipients who would avoid placement in a facility.

17 **SECTION 12C.12.(n)** Subsections (b) through (f) and (h) through (k) of this
18 section become effective October 1, 2015. The remainder of this section is effective when this
19 act becomes law.

20 **SUBPART XII-D. DIVISION OF AGING AND ADULT SERVICES**

21 **STATE-COUNTY SPECIAL ASSISTANCE RATES**

22 **SECTION 12D.1.(a)** For each year of the 2015-2017 fiscal biennium, the
23 maximum monthly rate for residents in adult care home facilities shall be one thousand one
24 hundred eighty-two dollars (\$1,182) per month per resident.

25 **SECTION 12D.1.(b)** For each year of the 2015-2017 fiscal biennium, the
26 maximum monthly rate for residents in Alzheimer's/Dementia special care units shall be one
27 thousand five hundred fifteen dollars (\$1,515) per month per resident.

28 **SUBPART XII-E. DIVISION OF PUBLIC HEALTH**

29 **FUNDS FOR SCHOOL NURSES**

30 **SECTION 12E.1.(a)** Funds appropriated in this act for the School Nurse Funding
31 Initiative shall be used to supplement and not supplant other State, local, or federal funds
32 appropriated or allocated for this purpose. Communities shall maintain their current level of
33 effort and funding for school nurses. These funds shall not be used to fund nurses for State
34 agencies. These funds shall be distributed to local health departments according to a formula
35 that includes all of the following:

- 36 (1) School nurse-to-student ratio.
- 37 (2) Percentage of students eligible for free or reduced-price meals.
- 38 (3) Percentage of children in poverty.
- 39 (4) Per capita income.
- 40 (5) Eligibility as a low-wealth county.
- 41 (6) Mortality rates for children between one and 19 years of age.
- 42 (7) Percentage of students with chronic illnesses.
- 43 (8) Percentage of county population consisting of minority persons.

44 **SECTION 12E.1.(b)** The Division of Public Health shall ensure that school nurses
45 funded with State funds (i) do not assist in any instructional or administrative duties associated
46 with a school's curriculum and (ii) perform all of the following with respect to school health
47 programs:
48
49
50
51

- 1 (1) Serve as the coordinator of the health services program and provide nursing
- 2 care.
- 3 (2) Provide health education to students, staff, and parents.
- 4 (3) Identify health and safety concerns in the school environment and promote a
- 5 nurturing school environment.
- 6 (4) Support healthy food services programs.
- 7 (5) Promote healthy physical education, sports policies, and practices.
- 8 (6) Provide health counseling, assess mental health needs, provide interventions,
- 9 and refer students to appropriate school staff or community agencies.
- 10 (7) Promote community involvement in assuring a healthy school and serve as
- 11 school liaison to a health advisory committee.
- 12 (8) Provide health education and counseling and promote healthy activities and
- 13 a healthy environment for school staff.
- 14 (9) Be available to assist the county health department during a public health
- 15 emergency.
- 16

17 AIDS DRUG ASSISTANCE PROGRAM (ADAP)

18 **SECTION 12E.2.** The Department of Health and Human Services shall work with
 19 the Department of Public Safety (DPS) to use DPS funds to purchase pharmaceuticals for the
 20 treatment of individuals in the custody of DPS who have been diagnosed with Human
 21 Immunodeficiency Virus or Acquired Immune Deficiency Syndrome (HIV/AIDS) in a manner
 22 that allows these funds to be accounted for as State matching funds in the Department of Health
 23 and Human Services drawdown of federal Ryan White funds earmarked for the AIDS Drug
 24 Assistance Program (ADAP).

25

26 APPOINTMENT, MANDATORY TRAINING, AND REVOCATION OF

27 APPOINTMENT OF COUNTY MEDICAL EXAMINERS

28 **SECTION 12E.4.(a)** G.S. 130A-382 reads as rewritten:

29 "**§ 130A-382. County medical examiners; appointment; term of office;**
 30 **vacancies.vacancies; training requirements; revocation for cause.**

31 (a) The Chief Medical Examiner shall appoint ~~one~~ two or more county medical
 32 examiners for each county for a three-year term. In appointing medical examiners for each
 33 county, the Chief Medical Examiner shall give preference to physicians licensed to practice
 34 medicine in this State but may also appoint licensed physician assistants, nurse practitioners,
 35 nurses, ~~examiners~~, or emergency medical technician paramedics. A medical examiner may serve
 36 more than one county. The Chief Medical Examiner may take jurisdiction in any case or
 37 appoint another medical examiner to do so.

38 (b) County medical examiners shall complete annual continuing education training as
 39 directed by the Office of the Chief Medical Examiner and based upon established and
 40 published guidelines for conducting death investigations. The continuing education training
 41 shall include training regarding sudden unexplained death in epilepsy. The Office of the Chief
 42 Medical Examiner shall annually update and publish these guidelines on its Internet Web site.
 43 Newly appointed county medical examiners shall complete mandatory orientation training as
 44 directed by the Office of the Chief Medical Examiner within 90 days of their appointment.

45 (c) The Chief Medical Examiner may revoke a county medical examiner's appointment
 46 for failure to adequately perform the duties of the office after providing the county medical
 47 examiner with written notice of the basis for the revocation and an opportunity to respond."

48 **SECTION 12E.4.(b)** This section becomes effective January 1, 2016.

49

50 INCREASE IN NORTH CAROLINA MEDICAL EXAMINER AUTOPSY FEE

51 **SECTION 12E.5.(a)** G.S. 130A-389(a) reads as rewritten:

1 "(a) If, in the opinion of the medical examiner investigating the case or of the Chief
2 Medical Examiner, it is advisable and in the public interest that an autopsy or other study be
3 made; or, if an autopsy or other study is requested by the district attorney of the county or by
4 any superior court judge, an autopsy or other study shall be made by the Chief Medical
5 Examiner or by a competent pathologist designated by the Chief Medical Examiner. A
6 complete autopsy report of findings and interpretations, prepared on forms designated for the
7 purpose, shall be submitted promptly to the Chief Medical Examiner. Subject to the limitations
8 of G.S. 130A-389.1 relating to photographs and video or audio recordings of an autopsy, a
9 copy of the report shall be furnished to any person upon request. A fee for the autopsy or other
10 study shall be paid by the State. However, if the deceased is a resident of the county in which
11 the death or fatal injury occurred, that county shall pay the fee. The fee shall be ~~one thousand~~
12 ~~two hundred fifty dollars (\$1,250)~~ two thousand eight hundred dollars (\$2,800)."

13 **SECTION 12E.5.(b)** Subsection (a) of this section applies to fees imposed for
14 autopsies performed on or after July 1, 2015.

15 **SECTION 12E.5.(c)** Funds appropriated in this act to the Department of Health
16 and Human Services, Division of Public Health, Office of the Chief Medical Examiner, shall
17 not be used to provide a supplement to counties to offset any portion of the autopsy fee
18 authorized in G.S. 130A-389(a), as amended by subsection (a) of this section.
19

20 **INCREASE IN NORTH CAROLINA MEDICAL EXAMINER FEE**

21 **SECTION 12E.6.(a)** G.S. 130A-387 reads as rewritten:

22 "**§ 130A-387. Fees.**

23 For each investigation and prompt filing of the required report, the medical examiner shall
24 receive a fee paid by the State. However, if the deceased is a resident of the county in which the
25 death or fatal injury occurred, that county shall pay the fee. The fee shall be ~~one hundred~~
26 ~~dollars (\$100.00)~~ two hundred fifty dollars (\$250.00)."

27 **SECTION 12E.6.(b)** Subsection (a) of this section becomes effective July 1, 2015,
28 and applies to fees imposed for investigations and reports filed on or after that date.
29

30 **INCREASE IN TRANSPORTATION RATE FOR DEATH INVESTIGATIONS AND** 31 **AUTOPSIES**

32 **SECTION 12E.7.** Of the funds appropriated in this act to the Department of Health
33 and Human Services, Division of Public Health, Office of the Chief Medical Examiner, the
34 sum of four hundred thousand dollars (\$400,000) for the 2015-2016 fiscal year and the sum of
35 four hundred thousand dollars (\$400,000) for the 2016-2017 fiscal year shall be used to
36 increase the current base contract rate paid by the Department to transport bodies for death
37 investigations or autopsies to one hundred ninety dollars (\$190.00) for the first 40 miles and
38 then one dollar (\$1.00) per mile after the first 40 miles.
39

40 **TRANSFER OF FUNCTIONS OF OFFICE OF MINORITY HEALTH**

41 **SECTION 12E.8.** The Office of Minority Health of the Department of Health and
42 Human Services is hereby eliminated. The Department of Health and Human Services,
43 Division of Central Management, shall assume responsibility for establishing and administering
44 a competitive grants process in accordance with Section 12A.8(d) of this act for evidence-based
45 programs that are scientifically proven to eliminate or reduce health disparities among minority
46 populations in this State.
47

48 **TRANSFER OF FUNCTIONS OF PHYSICAL ACTIVITY AND NUTRITION** 49 **PROGRAM TO DIVISION OF CENTRAL MANAGEMENT AND SUPPORT**

50 **SECTION 12E.9.** The Physical Activity and Nutrition Program within the
51 Department of Health and Human Services, Division of Public Health, Chronic Disease and

1 Injury Section, is hereby eliminated. The Department of Health and Human Services, Central
2 Management and Support Division, shall assume responsibility for establishing and
3 administering a competitive grants process in accordance with Section 12A.8(c) of this act for
4 evidence-based programs that are scientifically proven to improve physical health and nutrition
5 across the State.

6
7 **RENAMING AND TRANSFER OF OFFICE OF RURAL HEALTH AND**
8 **COMMUNITY CARE TO DIVISION OF PUBLIC HEALTH**

9 **SECTION 12E.10.(a)** The Office of Rural Health and Community Care is hereby
10 transferred from the Department of Health and Human Services, Division of Central
11 Management and Support, to the Department of Health and Human Services, Division of
12 Public Health, by a Type I transfer, as defined in G.S. 143A-6, and renamed the Rural Health
13 Section.

14 **SECTION 12E.10.(b)** Consistent with subsection (a) of this section, the Revisor of
15 Statutes may conform names and titles changed by this section, and may correct statutory
16 references as required by this section, throughout the General Statutes. In making the changes
17 authorized by this section, the Revisor may also adjust subject and verb agreement and the
18 placement of conjunctions.

19
20 **SUBPART XII-F. DIVISION OF MH/DD/SAS AND STATE OPERATED**
21 **HEALTHCARE FACILITIES**

22
23 **FUNDS FOR LOCAL INPATIENT PSYCHIATRIC BEDS OR BED DAYS**

24 **SECTION 12F.1.(a)** Use of Funds. – Of the funds appropriated in Section 2.1 of
25 this act to the Department of Health and Human Services, Division of Mental Health,
26 Developmental Disabilities and Substance Abuse Services, for crisis services, the sum of
27 forty-three million forty-nine thousand one hundred forty-four dollars (\$43,049,144) for the
28 2015-2016 fiscal year and the sum of forty-three million forty-nine thousand one hundred
29 forty-four dollars (\$43,049,144) for the 2016-2017 fiscal year shall be used to purchase
30 additional local inpatient psychiatric beds or bed days not currently funded by or through
31 LME/MCOs. The Department shall continue to implement a two-tiered system of payment for
32 purchasing these local inpatient psychiatric beds or bed days based on acuity level with an
33 enhanced rate of payment for inpatient psychiatric beds or bed days for individuals with higher
34 acuity levels, as defined by the Department. The enhanced rate of payment for inpatient
35 psychiatric beds or bed days for individuals with higher acuity levels shall not exceed the
36 lowest average cost per patient bed day among the State psychiatric hospitals. In addition, at
37 the discretion of the Secretary of Health and Human Services, existing funds allocated to
38 LME/MCOs for community-based mental health, developmental disabilities, and substance
39 abuse services may be used to purchase additional local inpatient psychiatric beds or bed days.
40 Funds designated in this subsection for the purchase of local inpatient psychiatric beds or bed
41 days shall not be used to supplant other funds appropriated or otherwise available to the
42 Department for the purchase of inpatient psychiatric services through contracts with local
43 hospitals.

44 **SECTION 12F.1.(b)** Distribution and Management of Beds or Bed Days. – The
45 Department shall work to ensure that any local inpatient psychiatric beds or bed days purchased
46 in accordance with this section are utilized solely for individuals who are medically indigent,
47 defined as uninsured persons who (i) are financially unable to obtain private insurance
48 coverage as determined by the Department and (ii) are not eligible for government-funded
49 health coverage such as Medicare or Medicaid; and distributed across the State in LME/MCO
50 catchment areas and according to need as determined by the Department. The Department shall
51 ensure that beds or bed days for individuals with higher acuity levels are distributed across the

1 State in LME catchment areas, including any catchment areas served by managed care
2 organizations, and according to greatest need based on hospital bed utilization data. The
3 Department shall enter into contracts with LME/MCOs and local hospitals for the management
4 of these beds or bed days. The Department shall work to ensure that these contracts are
5 awarded equitably around all regions of the State. LME/MCOs shall manage and control these
6 local inpatient psychiatric beds or bed days, including the determination of the specific local
7 hospital or State psychiatric hospital to which an individual should be admitted pursuant to an
8 involuntary commitment order.

9 **SECTION 12F.1.(c) Funds to Be Held in Statewide Reserve.** – Funds appropriated
10 to the Department for the purchase of local inpatient psychiatric beds or bed days shall not be
11 allocated to LME/MCOs but shall be held in a statewide reserve at the Division of Mental
12 Health, Developmental Disabilities and Substance Abuse Services, to pay for services
13 authorized by the LME/MCOs and billed by the hospitals through the LME/MCOs.
14 LME/MCOs shall remit claims for payment to the Department within 15 working days after
15 receipt of a clean claim from the hospital and shall pay the hospital within 30 working days
16 after receipt of payment from the Department.

17 **SECTION 12F.1.(d) Ineffective LME/MCO Management of Beds or Bed Days.** –
18 If the Department determines that (i) an LME/MCO is not effectively managing the beds or bed
19 days for which it has responsibility, as evidenced by beds or bed days in the local hospital not
20 being utilized while demand for services at the State psychiatric hospitals has not reduced, or
21 (ii) the LME/MCO has failed to comply with the prompt payment provisions of subsection (c)
22 of this section, the Department may contract with another LME/MCO to manage the beds or
23 bed days or, notwithstanding any other provision of law to the contrary, may pay the hospital
24 directly.

25 **SECTION 12F.1.(e) Reporting by LME/MCOs.** – The Department shall establish
26 reporting requirements for LME/MCOs regarding the utilization of these beds or bed days.

27 **SECTION 12F.1.(f) Reporting by Department.** – By no later than December 1,
28 2016, and by no later than December 1, 2017, the Department shall report to the Joint
29 Legislative Oversight Committee on Health and Human Services and the Fiscal Research
30 Division on all of the following:

- 31 (1) A uniform system for beds or bed days purchased during the preceding fiscal
32 year from (i) funds appropriated in this act that are designated for this
33 purpose in subsection (a) of this section, (ii) existing State appropriations,
34 and (iii) local funds.
- 35 (2) Other Department initiatives funded by State appropriations to reduce State
36 psychiatric hospital use.

37 38 **SINGLE STREAM FUNDING FOR MH/DD/SAS COMMUNITY SERVICES**

39 **SECTION 12F.2.(a)** For the purpose of mitigating cash flow problems that many
40 LME/MCOs experience at the beginning of each fiscal year relative to single stream funding,
41 the Department of Health and Human Services, Division of Mental Health, Developmental
42 Disabilities, and Substance Abuse Services (Division), shall distribute not less than one-twelfth
43 of each LME/MCO's continuation allocation at the beginning of the fiscal year and subtract the
44 amount of that distribution from the LME/MCO's total reimbursements for the fiscal year.

45 **SECTION 12F.2.(b)** The Division is directed to reduce its allocation for single
46 stream funding by one hundred eighty-five million six hundred four thousand six hundred
47 fifty-three dollars (\$185,604,653) in nonrecurring funds for the 2015-2016 fiscal year and by
48 one hundred eighty-five million six hundred four thousand six hundred fifty-three dollars
49 (\$185,604,653) for the 2016-2017 fiscal year. The Division is directed to allocate this reduction
50 among the LME/MCOs based on the percentage of the total single stream funding allocated to
51 each LME/MCO for the 2014-2015 fiscal year. During each year of the 2015-2017 fiscal

1 biennium, each LME/MCO shall use its cash reserves to provide at least the same level of
2 services paid for by single stream funding during the 2014-2015 fiscal year.

4 **FUNDS FOR THE NORTH CAROLINA CHILD TREATMENT PROGRAM**

5 **SECTION 12F.3.(a)** Recurring funds appropriated in this act to the Department of
6 Health and Human Services, Division of Mental Health, Developmental Disabilities, and
7 Substance Abuse Services, for the 2015-2017 fiscal biennium for the North Carolina Child
8 Treatment Program (NC CTP) shall be used for the following purposes:

- 9 (1) To continue to provide clinical training and coaching to licensed clinicians
10 on an array of evidence-based treatments and to provide a statewide platform
11 to assure accountability and outcomes.
- 12 (2) To maintain and manage a public roster of program graduates, linking
13 high-quality clinicians with children, families, and professionals.
- 14 (3) To partner with State, LME/MCO, and private sector leadership to bring
15 effective mental health treatment to children in juvenile justice and mental
16 health facilities.

17 **SECTION 12F.3.(b)** All data, including any entered or stored in the State-funded
18 secure database developed for the NC CTP to track individual-level and aggregate-level data
19 with interface capability to work with existing networks within State agencies, is and remains
20 the sole property of the State.

21 **TRAUMATIC BRAIN INJURY FUNDING**

22 **SECTION 12F.6.** Of the funds appropriated in this act to the Department of Health
23 and Human Services, Division of Mental Health, Developmental Disabilities, and Substance
24 Abuse Services, for the 2015-2016 fiscal year, the sum of two million three hundred
25 seventy-three thousand eighty-six dollars (\$2,373,086) shall be used exclusively to support
26 traumatic brain injury (TBI) services as follows:

- 27 (1) The sum of three hundred fifty-nine thousand two hundred eighteen dollars
28 (\$359,218) shall be used to fund contracts with the Brain Injury Association
29 of North Carolina, Carolinas Rehabilitation, or other appropriate service
30 providers.
- 31 (2) The sum of seven hundred ninety-six thousand nine hundred thirty-four
32 dollars (\$796,934) shall be used to support residential programs across the
33 State that are specifically designed to serve individuals with TBI.
- 34 (3) The sum of one million two hundred sixteen thousand nine hundred
35 thirty-four dollars (\$1,216,934) shall be used to support requests submitted
36 by individual consumers for assistance with residential support services,
37 home modifications, transportation, and other requests deemed necessary by
38 the consumer's local management entity and primary care physician.

39 **CREATION OF SEPARATE DOROTHEA DIX HOSPITAL PROPERTY FUND** 40 **WITHIN THE MENTAL HEALTH TRUST FUND**

41 **SECTION 12F.6A.(a)** G.S. 143C-9-2 is amended by adding a new subsection to
42 read:

43 "(b1) The Dorothea Dix Hospital Property Fund is established as a separate fund within
44 the Trust Fund. The fund is established to receive the net proceeds from the sale of the
45 Dorothea Dix Hospital property. Moneys in the Dorothea Dix Hospital Property Fund shall be
46 allocated or expended only upon an act of appropriation by the General Assembly and shall not
47 be subject to the limitations of the moneys in the Trust Fund for Mental Health, Developmental
48 Disabilities, and Substance Abuse Services and Bridge Funding Needs as described in
49 subsection (b) of this section."
50
51

1 **SECTION 12F.6A.(b)** Notwithstanding G.S. 146-30 or any other provision of law,
2 the net proceeds of the sale of the Dorothea Dix Hospital property shall be deposited into the
3 Dorothea Dix Hospital Property Fund established in G.S. 143C-9-2(b1), as enacted by
4 subsection (a) of this section.
5

6 **JOINT STUDY OF JUSTICE AND PUBLIC SAFETY AND BEHAVIORAL HEALTH**

7 **SECTION 12F.10.** The Joint Legislative Oversight Committee on Health and
8 Human Services and the Joint Legislative Oversight Committee on Justice and Public Safety
9 shall each appoint a subcommittee to study the intersection of Justice and Public Safety and
10 behavioral health and report their findings and recommendations to their respective
11 Committees. The subcommittees shall meet jointly to study and report on the following issues:

- 12 (1) The impact of the Justice Reinvestment Act on the State's behavioral health
13 system, including the following:
14 a. The impact of the Justice Reinvestment Act on the demand for
15 community-based behavioral health services available through local
16 management entities/managed care organizations (LME/MCOs).
17 b. The change in the number of criminal offenders referred to the
18 Treatment Accountability for Safer Communities (TASC) program
19 since 2010 and other demands on the TASC program that have arisen
20 since that time.
21 c. The sources and amounts of funding available to serve this
22 population, as well as any other support or resources that are
23 provided by the Department of Public Safety to the Department of
24 Health and Human Services or the LME/MCOs.
25 d. An analysis of the supply and demand for behavioral health providers
26 who serve this population.
27 (2) The impact of mental illness and substance abuse on county law
28 enforcement agencies, including the following:
29 a. The number of people with mental illness and substance abuse issues
30 held in county jails.
31 b. The impact on local law enforcement agencies, particularly with
32 respect to their budgets and personnel.
33 (3) The impact of judicial decisions on the State's behavioral health and social
34 services system, including the following:
35 a. The role and impact of family court decisions on the demand for and
36 delivery of county social services.
37 b. The role and impact of decisions by drug treatment courts, veterans'
38 mental health courts, and driving while impaired courts.
39 c. The impact of judicial decisions on the availability of beds in
40 State-operated psychiatric facilities as a result of involuntary
41 commitment orders and incapacity to proceed decisions.
42 (4) Any other relevant issues the subcommittees jointly deem appropriate.
43

44 **LME/MCO USE OF FUNDS TO PURCHASE INPATIENT ALCOHOL AND**
45 **SUBSTANCE ABUSE TREATMENT SERVICES**

46 **SECTION 12F.12.(a)** It is the intent of the General Assembly to terminate all
47 direct State appropriations for State-operated alcohol and drug abuse treatment centers
48 (ADATCs) beginning with the 2015-2016 fiscal year and instead appropriate funds to the
49 Department of Health and Human Services, Division of Mental Health, Developmental
50 Disabilities and Substance Abuse Services, for community services in order to allow local
51 management entities/managed care organizations (LME/MCOs) to assume responsibility for

1 managing the full array of publicly funded substance abuse services, including inpatient
2 services delivered through the ADATCs. To this end and notwithstanding any other provision
3 of law, on the effective date of this section all direct State appropriations for ADATCs are
4 terminated and the ADATCs shall be one hundred percent receipt-supported.

5 **SECTION 12F.12.(b)** From funds appropriated in this act to the Department of
6 Health and Human Services, Division of Mental Health, Developmental Disabilities and
7 Substance Abuse Services, to be allocated to LME/MCOs for the purchase of inpatient alcohol
8 and substance abuse treatment services, the LME/MCOs shall use their respective fund
9 allocations for individuals within their respective catchment areas as follows:

10 (1) During the 2015-2016 fiscal year, a minimum of one hundred percent
11 (100%) of the allocation shall be used exclusively to purchase inpatient
12 alcohol and substance abuse treatment services from the ADATCs.

13 (2) During the 2016-2017 fiscal year, a minimum of ninety percent (90%) of the
14 allocation shall be used exclusively to purchase inpatient alcohol and
15 substance abuse treatment services from the ADATCs. The LME/MCOs
16 shall use the remaining ten percent (10%) of their respective allocations to
17 purchase inpatient alcohol and substance abuse treatment services from any
18 qualified provider.

19 **SECTION 12F.12.(c)** By March 1, 2016, the Department of Health and Human
20 Services shall develop and report to the Joint Legislative Oversight Committee on Health and
21 Human Services and the Fiscal Research Division a plan to allow the ADATCs to remain one
22 hundred percent (100%) receipt-supported. The report shall include an evaluation of (i) other
23 community-based and residential services that could be provided by the ADATCs and (ii)
24 potential funding sources other than payments from the LME/MCOs, including funding
25 available from estimated receipts from Medicare, Medicaid, insurance, and self-pay.
26

27 **CLOSURE OF WRIGHT SCHOOL**

28 **SECTION 12F.13.(a)** The Department of Health and Human Services shall not
29 allow any new admissions or readmissions to the Wright School after June 30, 2015. The
30 Department shall, in consultation with local management entities/managed care organizations,
31 develop a plan to transition all students enrolled at the Wright School to other appropriate
32 educational and treatment settings.

33 **SECTION 12F.13.(b)** By September 30, 2015, the Department shall permanently
34 cease operations at the Wright School.

35 **SECTION 12F.13.(c)** G.S. 122C-181(a)(5)b. is repealed effective October 1, 2015.
36

37 **REPORT ON MULTIPLICATIVE AUDITING AND MONITORING OF CERTAIN** 38 **SERVICE PROVIDERS**

39 **SECTION 12F.14.** No later than December 1, 2015, the Department of Health and
40 Human Services shall report to the Joint Legislative Oversight Committee on Health and
41 Human Services and the Fiscal Research Division on the status of multiplicative auditing and
42 monitoring of all provider agencies under the Division of Mental Health, Developmental
43 Disabilities and Substance Abuse Services, that have been nationally accredited through a
44 recognized national accrediting body. The report shall include (i) all group home facilities
45 licensed under Chapter 122C of the General Statutes, (ii) a complete list of all auditing and
46 monitoring activities to which these service providers are subject, and (iii) recommendations on
47 the removal of all unnecessary regulatory duplication to enhance efficiency.
48

49 **FUNDS FOR DRUG OVERDOSE MEDICATIONS**

50 **SECTION 12F.15.** Funds appropriated in this act to the Department of Health and
51 Human Services, Division of Mental Health, Developmental Disabilities and Substance Abuse

1 Services, for the 2015-2016 fiscal year for the purchase of opioid antagonists as defined in
2 G.S. 90-106.2, shall be used as follows:

- 3 (1) Twenty-five thousand dollars (\$25,000) shall be used to purchase opioid
4 antagonists to be distributed at no charge to the North Carolina Harm
5 Reduction Coalition to serve individuals at risk of experiencing an
6 opioid-related drug overdose or to the friends and family members of an
7 at-risk individual.
8 (2) Twenty-five thousand dollars (\$25,000) shall be used to purchase opioid
9 antagonists to be distributed at no charge to North Carolina law enforcement
10 agencies.

11 12 **STRENGTHENING OF CONTROLLED SUBSTANCES MONITORING**

13 14 **STATEWIDE OPIOID PRESCRIBING GUIDELINES**

15
16 **SECTION 12F.16.(a)** By July 1, 2016, the following State health officials and
17 health care provider licensing boards shall adopt the North Carolina Medical Board's Policy for
18 the Use of Opiates for the Treatment of Pain:

- 19 (1) The Director of the Division of Public Health of the Department of Health
20 and Human Services (DHHS).
21 (2) The Director of the Division of Medical Assistance, DHHS.
22 (3) The Director of the Division of Mental Health, Developmental Disabilities,
23 and Substance Abuse Services, DHHS.
24 (4) The directors of medical, dental, and mental health services within the
25 Department of Public Safety.
26 (5) North Carolina State Board of Dental Examiners.
27 (6) North Carolina Board of Nursing.
28 (7) North Carolina Board of Podiatry Examiners.
29

30 **CONTINUING EDUCATION REQUIREMENTS**

31
32 **SECTION 12F.16.(b).** The following health care provider occupational licensing
33 boards shall require continuing education on the abuse of controlled substances as a condition
34 of license renewal for health care providers who prescribe controlled substances:

- 35 (1) North Carolina Board of Dental Examiners.
36 (2) North Carolina Board of Nursing.
37 (3) North Carolina Board of Podiatry Examiners.
38 (4) North Carolina Medical Board.

39 **SECTION 12F.16.(c).** In establishing the continuing education standards, the
40 boards listed in subsection (b) of this section shall require that at least one hour of the total
41 required continuing education hours consists of a course designed specifically to address
42 prescribing practices. The course shall include, but not be limited to, instruction on controlled
43 substance prescribing practices and controlled substance prescribing for chronic pain
44 management.
45

46 **IMPROVE CONTROLLED SUBSTANCES REPORTING SYSTEM ACCESS AND** 47 **UTILIZATION**

48
49 **SECTION 12F.16.(d).** G.S. 90-113.74 reads as rewritten:
50 **"§ 90-113.74. Confidentiality.**

1 (a) Prescription information submitted to the Department is privileged and confidential,
2 is not a public record pursuant to G.S. 132-1, is not subject to subpoena or discovery or any
3 other use in civil proceedings, and except as otherwise provided below may only be used (i) for
4 investigative or evidentiary purposes related to violations of State or federal law and law, (ii)
5 for regulatory ~~activities~~ activities, or (iii) to inform medical records or clinical care. Except as
6 otherwise provided by this section, prescription information shall not be disclosed or
7 disseminated to any person or entity by any person or entity authorized to review prescription
8 information.

9 ...
10 (c) The Department shall release data in the controlled substances reporting system to
11 the following persons only:

12 ...
13 (8) Any county medical examiner appointed by the Chief Medical Examiner
14 pursuant to G.S. 130A-382 and the Chief Medical Examiner, for the purpose
15 of investigating the death of an individual.

16 (9) The federal Drug Enforcement Administration's Office of Diversion Control.

17 (10) The North Carolina Health Information Exchange Authority (NC HIE
18 Authority), established under Article 29A of this Chapter, through
19 Web-service calls.

20"

21 **SECTION 12F.16.(e).** The Department of Health and Human Services shall adopt
22 appropriate policies and procedures documenting and supporting the additional functionality
23 and expanded access added by subsection (d) of this section for the Controlled Substances
24 Reporting System (CSRS) for the entities added to G.S. 90-113.74(c) by subsection (d) of this
25 section and shall amend its contract with the vendor that operates the CSRS to support the
26 additional functionality and expanded access to the CSRS.

27 **IMPROVE CONTROLLED SUBSTANCES REPORTING SYSTEM CONTRACT**

28
29
30 **SECTION 12F.16.(f).** The Department of Health and Human Services (DHHS)
31 shall modify the contract for the Controlled Substances Reporting System (CSRS) to improve
32 performance, establish user access controls, establish data security protocols, and ensure
33 availability of data for advanced analytics. Specifically, the contract shall be modified to
34 include the following:

35 (1) A connection to the North Carolina Health Information Exchange Authority
36 (NC HIE Authority).

37 (2) The establishment of interstate connectivity.

38 (3) Data security protocols that meet or exceed the Federal Information
39 Processing Standards (FIPS) established by the National Institute of
40 Standards and Technology (NIST).

41 **SECTION 12F.16.(g).** DHHS shall complete the contract modifications required
42 by subsection (f) of this section by December 31, 2015. DHHS shall report by November 15,
43 2015, to the Joint Legislative Program Evaluation Oversight Committee and the Joint
44 Legislative Oversight Committee on Health and Human Services regarding the progress to
45 modify the contract.

46 **SECTION 12F.16.(h).** DHHS shall apply for grant funding from the National
47 Association of Boards of Pharmacy to establish the connection to PMP InterConnect. The
48 Department shall request forty thousand thirty-five dollars (\$40,035) to establish the initial
49 interface for PMP InterConnect and thirty thousand dollars (\$30,000) for two years of ongoing
50 service, maintenance, and support for PMP InterConnect in order to create interstate

1 connectivity for the drug monitoring program as required by subdivision (2) of subsection (f) of
2 this section.

3 **SECTION 12F.16.(i).** Funds appropriated in this act to the Department of Health
4 and Human Services, Division of Mental Health, Developmental Disabilities, and Substance
5 Abuse Services, for the CSRS shall be used as follows:

- 6 (1) For the 2015-2016 fiscal year, the sum of forty thousand thirty-five dollars
7 (\$40,035) shall be used to connect the CSRS and the NC HIE Authority, as
8 required by subdivision (1) of subsection (f) of this section.
- 9 (2) For the 2015-2016 fiscal year and for the 2016-2017 fiscal year, the sum of
10 fifteen thousand dollars (\$15,000) shall be used to maintain a connection
11 between the CSRS and the NC HIE Authority, as required by subdivision (1)
12 of subsection (f) of this section.
- 13 (3) For the 2015-2016 fiscal year, the sum of forty thousand thirty-five dollars
14 (\$40,035) shall be used to establish the initial interface for PMP
15 InterConnect, as required by subdivision (2) of subsection (f) of this section.
16 This amount shall be adjusted or eliminated if DHHS is successful in
17 obtaining grant awards or identifying other allowable receipts for this
18 purpose. If receipts are used for this purpose, this nonrecurring appropriation
19 shall revert to the General Fund.
- 20 (4) For the 2015-2016 fiscal year, the sum of fifteen thousand dollars (\$15,000)
21 shall be used for the cost of annual service fees for the interstate connection
22 for the drug monitoring program, as required by subdivision (2) of
23 subsection (f) of this section. This amount shall be adjusted or eliminated if
24 DHHS is successful in obtaining grant awards or identifying other allowable
25 receipts for this purpose. If receipts are used for this purpose, this
26 nonrecurring appropriation shall revert to the General Fund.

27 28 **EXPAND MONITORING CAPACITY**

29
30 **SECTION 12F.16.(j).** The North Carolina Controlled Substances Reporting
31 System shall expand its monitoring capacity by establishing data use agreements with the
32 Prescription Behavior Surveillance System. In order to participate, the CSRS shall establish a
33 data use agreement with the Center of Excellence at Brandeis University no later than January
34 1, 2016.

35 **SECTION 12F.16.(k)** Beginning September 1, 2016, and every two years
36 thereafter, the Division of Mental Health, Developmental Disabilities, and Substance Abuse
37 Services of the Department of Health and Human Services shall report on its participation with
38 the Prescription Behavior Surveillance System to the Joint Legislative Oversight Committee on
39 Health and Human Services and the Joint Legislative Oversight Committee on Justice and
40 Public Safety.

41 42 **MEDICAID LOCK-IN PROGRAM**

43
44 **SECTION 12F.16.(l).** The Division of Medical Assistance of the Department of
45 Health and Human Services (DMA) shall take the following steps to improve the effectiveness
46 and efficiency of the Medicaid lock-in program:

- 47 (1) Establish written procedures for the operation of the lock-in program,
48 including specifying the responsibilities of DMA and the program
49 contractor.
- 50 (2) Establish procedures for the sharing of bulk data with the Controlled
51 Substances Regulatory Branch.

- 1 (3) In consultation with the Physicians Advisory Group, extend lock-in duration
2 to two years and revise program eligibility criteria to align the program with
3 the statewide strategic goals for preventing prescription drug abuse. DMA
4 shall report an estimate of the cost-savings from the revisions to the
5 eligibility criteria to the Joint Legislative Program Evaluation Oversight
6 Committee and the Joint Legislative Oversight Committee on Health and
7 Human Services within one year of the lock-in program again becoming
8 operational.
- 9 (4) Develop a Web site and communication materials to inform lock-in
10 enrollees, prescribers, pharmacists, and emergency room health care
11 providers about the program.
- 12 (5) Increase program capacity to ensure that all individuals who meet program
13 criteria are locked in.
- 14 (6) Conduct an audit of the lock-in program within six months after the effective
15 date of this act in order to evaluate the effectiveness of program restrictions
16 in preventing overutilization of controlled substances, identify any program
17 vulnerabilities, and address whether there is evidence of any fraud or abuse
18 within the program.

19 DMA shall report to the Joint Legislative Program Evaluation Oversight Committee by
20 September 30, 2015, on its progress toward implementing all items included in this section.

21 STATEWIDE STRATEGIC PLAN

22 **SECTION 12F.16.(m).** There is hereby created the Prescription Drug Abuse
23 Advisory Committee, to be housed in and staffed by the Department of Health and Human
24 Services (DHHS). The Committee shall develop and, through its members, implement a
25 statewide strategic plan to combat the problem of prescription drug abuse. The Committee shall
26 include representatives from the following, as well as any other persons designated by the
27 Secretary of Health and Human Services:

- 28 (1) The Division of Medical Assistance, DHHS.
29 (2) The Division of Mental Health, Developmental Disabilities, and Substance
30 Abuse Services, DHHS.
31 (3) The Division of Public Health, DHHS.
32 (4) The Rural Health Section of the Division of Public Health, DHHS.
33 (5) The State Bureau of Investigation.
34 (6) The Attorney General's Office.
35 (7) The following health care regulatory boards with oversight of prescribers
36 and dispensers of prescription drugs:
37 a. North Carolina Board of Dental Examiners.
38 b. North Carolina Board of Nursing.
39 c. North Carolina Board of Podiatry Examiners.
40 d. North Carolina Medical Board.
41 e. North Carolina Board of Pharmacy.
42 (8) The UNC Injury Prevention Research Center.
43 (9) The substance abuse treatment community.
44 (10) Governor's Institute on Substance Abuse, Inc.
45 (11) The Department of Insurance's drug take-back program.

46 After developing the strategic plan, the Committee shall be the State's steering committee to
47 monitor achievement of strategic objectives and receive regular reports on progress made
48 toward reducing prescription drug abuse in North Carolina.
49
50

1 (b) In developing the statewide strategic plan to combat the problem of
2 prescription drug abuse, the Prescription Drug Abuse Advisory Committee shall, at a
3 minimum, complete the following steps:

4 (1) Identify a mission and vision for North Carolina's system to reduce and
5 prevent prescription drug abuse.

6 (2) Scan the internal and external environment for the system's strengths,
7 weaknesses, opportunities, and challenges (a SWOC analysis).

8 (3) Compare threats and opportunities to the system's ability to meet challenges
9 and seize opportunities (a GAP analysis).

10 (4) Identify strategic issues based on SWOC and GAP analyses.

11 (5) Formulate strategies and resources for addressing these issues.

12 (c) The strategic plan for reducing prescription drug abuse shall include three to
13 five strategic goals that are outcome-oriented and measurable. Each goal must be connected
14 with objectives supported by the following five mechanisms of the system:

15 (1) Oversight and regulation of prescribers and dispensers by State health care
16 regulatory boards.

17 (2) Operation of the Controlled Substances Reporting System.

18 (3) Operation of the Medicaid lock-in program to review behavior of patients
19 with high use of prescribed controlled substances.

20 (4) Enforcement of State laws for the misuse and diversion of controlled
21 substances.

22 (5) Any other appropriate mechanism identified by the Committee.

23 (d) DHHS, in consultation with the Prescription Drug Abuse Advisory
24 Committee, shall develop and implement a formalized performance management system that
25 connects the goals and objectives identified in the statewide strategic plan to operations of the
26 Controlled Substances Reporting System and Medicaid lock-in program, law enforcement
27 activities, and oversight of prescribers and dispensers. The performance management system
28 must be designed to monitor progress toward achieving goals and objectives and must
29 recommend actions to be taken when performance falls short.

30 (e) Beginning on December 1, 2016, and annually thereafter, DHHS shall
31 submit an annual report on the performance of North Carolina's system for monitoring
32 prescription drug abuse to the Joint Legislative Oversight Committee on Health and Human
33 Services and the Joint Legislative Oversight Committee on Justice and Public Safety.

34 35 **EFFECTIVE DATE**

36
37 **SECTION 12F.16.(n).** Subdivision (f)(1) of this section becomes effective upon
38 the establishment of the North Carolina Health Information Exchange Authority pursuant to
39 Section 12A.5 of this act. The remainder of this section is effective when it becomes law.

40 41 **ELIMINATE PUBLICATION/ACCESS NORTH CAROLINA TRAVEL GUIDE**

42 **SECTION 12F.17.** G.S. 168-2 is repealed.

43 44 **SUBPART XII-G. DIVISION OF HEALTH SERVICE REGULATION**

45 46 **MORATORIUM ON SPECIAL CARE UNIT LICENSES**

47 **SECTION 12G.2.(a)** Section 12G.1(a) of S.L. 2013-360, as amended by Section
48 12G.5 of S.L. 2014-100, reads as rewritten:

49 "**SECTION 12G.1.(a)** For the period beginning July 31, 2013, and ending ~~June 30,~~
50 ~~2016, June 30, 2017,~~ the Department of Health and Human Services, Division of Health Service
51 Regulation (Department), shall not issue any licenses for special care units as defined in

1 G.S. 131D-4.6 and G.S. 131E-114. This prohibition shall not restrict the Department from
2 doing any of the following:

- 3 (1) Issuing a license to a facility that is acquiring an existing special care unit.
- 4 (2) Issuing a license for a special care unit in any area of the State upon a
5 determination by the Secretary of the Department of Health and Human
6 Services that increased access to this type of care is necessary in that area
7 during the moratorium imposed by this section.
- 8 (3) Processing all completed applications for special care unit licenses received
9 by the Division of Health Service Regulation along with the applicable
10 license fee prior to June 1, 2013.
- 11 (4) Issuing a license to a facility that was in possession of a certificate of need as
12 of July 31, 2013, that included authorization to operate special care unit
13 beds."

14 **SECTION 12G.2.(a1)** The Department shall submit a report to the Joint
15 Legislative Oversight Committee on Health and Human Services by March 1, 2016, containing
16 at least the following information:

- 17 (1) The number of licensed special care units in the State.
- 18 (2) The capacity of the currently licensed special care units to serve people in
19 need of their services.
- 20 (3) The anticipated growth in the number of people who will need the services
21 of a licensed special care unit.
- 22 (4) The number of applications received from special care units seeking
23 licensure as permitted by this section, and the number of those applications
24 that were not approved.

25 **SECTION 12G.2.(b)** This section is effective when this act becomes law.
26

27 PHASED CERTIFICATE OF NEED REPEAL

28 **SECTION 12G.5.(a)** It is the intent of the General Assembly to repeal the
29 certificate of need laws set forth in Article 9 of Chapter 131E of the General Statutes in three
30 phases as set forth in subsections (b) and (c) of this section.

31 **SECTION 12G.5.(b)** Phase 1. – Effective January 1, 2016, the certificate of need
32 laws will not apply to the following health service facilities and activities:

- 33 (1) The establishment of beds or a change in bed capacity at any of the
34 following health service facilities:
 - 35 a. Acute care hospitals.
 - 36 b. Inpatient psychiatric hospitals.
 - 37 c. Inpatient rehabilitation hospitals.
 - 38 d. Kidney disease treatment centers.
 - 39 e. ICFMRs.
 - 40 f. Chemical dependency treatment facilities.
- 41 (2) The offering of any of the following services:
 - 42 a. Bone marrow transplantation.
 - 43 b. Burn intensive care services.
 - 44 c. Open heart surgery services.
 - 45 d. Solid organ transplantation.
- 46 (3) The acquisition of any of the following equipment:
 - 47 a. Gamma knife equipment.
 - 48 b. Heart-lung bypass machine.
 - 49 c. Lithotripter.

- (4) The construction, development, establishment, increase in the number, or relocation of an operating room or gastrointestinal endoscopy room in a licensed health service facility.

SECTION 12G.5.(c) Phase 2. – Effective August 1, 2017, the certificate of need laws will not apply to the establishment of beds or a change in bed capacity at any of the following health service facilities:

- (1) Diagnostic centers.
- (2) Ambulatory surgical facilities.

SECTION 12G.5.(d) Phase 3. – Effective January 1, 2019, the certificate of need laws will not apply to the following health service facilities and activities:

- (1) Nursing homes.
- (2) Hospice programs.
- (3) Hospice inpatient facilities.
- (4) Hospice residential care facilities.
- (5) Long-term care hospitals.
- (6) The offering of cardiac catheterization services.
- (7) The acquisition of any of the following equipment:
 - a. Cardiac catheterization equipment.
 - b. Linear accelerator.
 - c. Magnetic resonance imaging scanner.
 - d. Positron emission tomography scanner.
 - e. Simulator.

REPEAL CERTIFICATE OF PUBLIC ADVANTAGE LAWS

SECTION 12G.6.(a) Article 1E of Chapter 90 and Article 9A of Chapter 131E of the General Statutes are repealed.

SECTION 12G.6.(b) All existing certificates of public advantage (COPAs) granted pursuant to Article 1E of Chapter 90 and Article 9A of Chapter 131E of the General Statutes, as defined in these Articles, are cancelled effective January 1, 2016. By delaying the effective date of the cancellation of COPAs to January 1, 2016, it is the intent of the General Assembly to provide parties to existing cooperative agreements, as defined in G.S. 90-21.25 and G.S. 131E-192.2, with sufficient time to review their cooperative agreements for compliance with State and federal laws and to take whatever action the parties deem necessary.

SECTION 12G.6.(c) This section is effective when it becomes law.

SUBPART XII-H. DIVISION OF MEDICAL ASSISTANCE (MEDICAID)

MEDICAID ELIGIBILITY

SECTION 12H.2.(a) Families and children who are categorically and medically needy are eligible for Medicaid, subject to the following annual income levels:

| Family Size | Categorically Needy Income Level | Medically Needy Income Level |
|-------------|----------------------------------|------------------------------|
| 1 | \$ 5,208 | \$ 2,904 |
| 2 | 6,828 | 3,804 |
| 3 | 8,004 | 4,404 |
| 4 | 8,928 | 4,800 |
| 5 | 9,888 | 5,196 |
| 6 | 10,812 | 5,604 |
| 7 | 11,700 | 6,000 |
| 8 | 12,432 | 6,300 |

1 The Department of Health and Human Services shall provide Medicaid coverage to 19- and
2 20-year-olds under this subsection in accordance with federal rules and regulations. Medicaid
3 enrollment of categorically needy families with children shall be continuous for one year
4 without regard to changes in income or assets.

5 **SECTION 12H.2.(b)** For the following Medicaid eligibility classifications for
6 which the federal poverty guidelines are used as income limits for eligibility determinations,
7 the income limits will be updated each April 1 immediately following publication of federal
8 poverty guidelines. The Department of Health and Human Services, Division of Medical
9 Assistance, shall provide Medicaid coverage to the following:

- 10 (1) All elderly, blind, and disabled people who have incomes equal to or less
11 than one hundred percent (100%) of the federal poverty guidelines.
- 12 (2) Pregnant women with incomes equal to or less than one hundred ninety-six
13 percent (196%) of the federal poverty guidelines and without regard to
14 resources. Services to pregnant women eligible under this subsection
15 continue throughout the pregnancy but include only those related to
16 pregnancy and to those other conditions determined by the Department as
17 conditions that may complicate pregnancy.
- 18 (3) Infants under the age of one with family incomes equal to or less than two
19 hundred ten percent (210%) of the federal poverty guidelines and without
20 regard to resources.
- 21 (4) Children aged one through five with family incomes equal to or less than
22 two hundred ten percent (210%) of the federal poverty guidelines and
23 without regard to resources.
- 24 (5) Children aged six through 18 with family incomes equal to or less than one
25 hundred thirty-three percent (133%) of the federal poverty guidelines and
26 without regard to resources.
- 27 (6) Workers with disabilities described in G.S. 108A-66A with unearned income
28 equal to or less than one hundred fifty percent (150%) of the federal poverty
29 guidelines.

30 The Department of Health and Human Services, Division of Medical Assistance, shall also
31 provide family planning services to men and women of childbearing age with family incomes
32 equal to or less than one hundred ninety-five percent (195%) of the federal poverty guidelines
33 and without regard to resources.

34 **SECTION 12H.2.(c)** The Department of Health and Human Services, Division of
35 Medical Assistance, shall provide Medicaid coverage to adoptive children with special or
36 rehabilitative needs, regardless of the adoptive family's income.

37 **SECTION 12H.2.(d)** The Department of Health and Human Services, Division of
38 Medical Assistance, shall provide Medicaid coverage to "independent foster care adolescents,"
39 ages 18, 19, and 20, as defined in section 1905(w)(1) of the Social Security Act (42 U.S.C. §
40 1396d(w)(1)), without regard to the adolescent's assets, resources, or income levels.

41 **SECTION 12H.2.(e)** The Department of Health and Human Services, Division of
42 Medical Assistance, shall provide Medicaid coverage to women who need treatment for breast
43 or cervical cancer and who are defined in 42 U.S.C. § 1396a(a)(10)(A)(ii)(XVIII).

44 **SECTION 12H.2.(f)** G.S. 108A-70.21 reads as rewritten:

45 **"§ 108A-70.21. Program eligibility; benefits; enrollment fee and other cost-sharing;
46 coverage from private plans; purchase of extended coverage.**

47 (a) Eligibility. – The Department may enroll eligible children based on availability of
48 funds. Following are eligibility and other requirements for participation in the Program:

- 49 (1) Children must:
 - 50 a. Be between the ages of 6 through 18;

- 1 b. Be ineligible for Medicaid, Medicare, or other federal
2 government-sponsored health insurance;
3 c. Be uninsured;
4 d. Be in a family whose family income is above one hundred
5 thirty-three percent (133%) ~~through and less than or equal to two~~
6 hundred eleven percent ~~(200%)(211%)~~ of the federal poverty level;
7 e. Be a resident of this State and eligible under federal law; and
8 f. Have paid the Program enrollment fee required under this Part.

9 ...

10 (b) Benefits. – All health benefits changes of the Program shall meet the coverage
11 requirements set forth in this subsection. Except as otherwise provided for eligibility, fees,
12 deductibles, copayments, and other cost sharing charges, health benefits coverage provided to
13 children eligible under the Program shall be equivalent to coverage provided for dependents
14 under North Carolina Medicaid Program except for the following:

- 15 (1) No services for long-term care.
16 (2) No nonemergency medical transportation.
17 (3) No EPSDT.
18 (4) Dental services shall be provided on a restricted basis in accordance with
19 criteria adopted by the Department to implement this subsection.

20 In addition to the benefits provided under the North Carolina Medicaid Program, the
21 following services and supplies are covered under the Health Insurance Program for Children
22 established under this Part:

- 23 (1), (1a) Repealed by Session Laws 2011-145, s. 10.41(b), effective July 1, 2011.
24 (2) Vision: Scheduled routine eye examinations once every 12 months, eyeglass
25 lenses or contact lenses once every 12 months, routine replacement of
26 eyeglass frames once every 24 months, and optical supplies and solutions
27 when needed. NCHC recipients must obtain optical services, supplies, and
28 solutions from NCHC enrolled, licensed or certified ophthalmologists,
29 optometrists, or opticians. In accordance with G.S. 148-134, NCHC
30 providers must order complete eyeglasses, eyeglass lenses, and ophthalmic
31 frames through Nash Optical Plant. Eyeglass lenses are limited to
32 NCHC-approved single vision, bifocal, trifocal, or other complex lenses
33 necessary for a Plan enrollee's visual welfare. Coverage for oversized lenses
34 and frames, designer frames, photosensitive lenses, tinted contact lenses,
35 blended lenses, progressive multifocal lenses, coated lenses, and laminated
36 lenses is limited to the coverage for single vision, bifocal, trifocal, or other
37 complex lenses provided by this subsection. Eyeglass frames are limited to
38 NCHC-approved frames made of zylonite, metal, or a combination of
39 zylonite and metal. All visual aids covered by this subsection require prior
40 approval. Requests for medically necessary complete eyeglasses, eyeglass
41 lenses, and ophthalmic frames outside of the NCHC-approved selection
42 require prior approval. Requests for medically necessary fabrication of
43 complete eyeglasses or eyeglass lenses outside of Nash Optical Plant require
44 prior approval. Upon prior approval refractions may be covered more often
45 than once every 12 months.
46 (3) Under the North Carolina Health Choice Program for Children, the
47 co-payment for nonemergency visits to the emergency room for children
48 whose family income is ~~at or below less than or equal to one hundred~~
49 ~~fifty~~fifty-nine percent ~~(150%)(159%)~~ of the federal poverty level is ten
50 dollars (\$10.00). The co-payment for children whose family income is
51 ~~between above one hundred fifty one~~fifty-nine percent ~~(151%)(159%)~~ and

1 less than or equal to two hundred eleven percent ~~(200%)(211%)~~ of the
2 federal poverty level is twenty-five dollars (\$25.00).

3 ...

4 (c) Annual Enrollment Fee. – There shall be no enrollment fee for Program coverage
5 for enrollees whose family income is ~~at or below~~ less than or equal to one hundred fifty
6 fifty-nine percent ~~(150%)(159%)~~ of the federal poverty level. The enrollment fee for Program
7 coverage for enrollees whose family income is above one hundred ~~fifty-fifty-nine percent~~
8 ~~(150%)(159%)~~ through and less than or equal to two hundred eleven percent ~~(200%)(211%)~~ of
9 the federal poverty level shall be fifty dollars (\$50.00) per year per child with a maximum
10 annual enrollment fee of one hundred dollars (\$100.00) for two or more children. The
11 enrollment fee shall be collected by the county department of social services and retained to
12 cover the cost of determining eligibility for services under the Program. County departments of
13 social services shall establish procedures for the collection of enrollment fees.

14 (d) Cost-Sharing. – There shall be no deductibles, copayments, or other cost-sharing
15 charges for families covered under the Program whose family income is ~~at or below~~ less than or
16 equal to one hundred fifty-fifty-nine percent ~~(150%)(159%)~~ of the federal poverty level, except
17 that fees for outpatient prescription drugs are applicable and shall be one dollar (\$1.00) for each
18 outpatient generic prescription drug, for each outpatient brand-name prescription drug for
19 which there is no generic substitution available, and for each covered over-the-counter
20 medication. The fee for each outpatient brand-name prescription drug for which there is a
21 generic substitution available is three dollars (\$3.00). Families covered under the Program
22 whose family income is above one hundred ~~fifty-fifty-nine percent~~ ~~(150%)(159%)~~ of the
23 federal poverty level shall be responsible for copayments to providers as follows:

- 24 (1) Five dollars (\$5.00) per child for each visit to a provider, except that there
25 shall be no copayment required for well-baby, well-child, or age-appropriate
26 immunization services;
- 27 (2) Five dollars (\$5.00) per child for each outpatient hospital visit;
- 28 (3) A one dollar (\$1.00) fee for each outpatient generic prescription drug, for
29 each outpatient brand-name prescription drug for which there is no generic
30 substitution available, and for each covered over-the-counter medication.
31 The fee for each outpatient brand-name prescription drug for which there is a
32 generic substitution available is ten dollars (\$10.00).
- 33 (4) Twenty dollars (\$20.00) for each emergency room visit unless:
- 34 a. The child is admitted to the hospital, or
- 35 b. No other reasonable care was available as determined by the
36 Department.

37 ..."

38 39 **LME/MCO OUT-OF-NETWORK AGREEMENTS**

40 **SECTION 12H.3.(a)** The Department of Health and Human Services (Department)
41 shall ensure that local management entities/managed care organizations (LME/MCOs) utilize
42 an out-of-network agreement that contains standardized elements developed in consultation
43 with LME/MCOs. The out-of-network agreement shall be a streamlined agreement between a
44 single provider of behavioral health or intellectual/developmental disability (IDD) services and
45 an LME/MCO to ensure access to care in accordance with 42 C.F.R. 438.206(b)(4), reduce
46 administrative burden on the provider, and comply with all requirements of State and federal
47 laws and regulations. Beginning July 1, 2015, LME/MCOs shall use the out-of-network
48 agreement in lieu of a comprehensive provider contract when all of the following conditions are
49 met:

- 50 (1) The services requested are medically necessary and cannot be provided by
51 an in-network provider.

- 1 (2) The behavioral health or IDD provider's site of service delivery is located
2 outside of the geographical catchment area of the LME/MCO, and the
3 LME/MCO is not accepting applications or the provider does not wish to
4 apply for membership in the LME/MCO closed network.
- 5 (3) The behavioral health or IDD provider is not excluded from participation in
6 the Medicaid program, the NC Health Choice program or other State or
7 federal health care program.
- 8 (4) The behavioral health or IDD provider is serving no more than two enrollees
9 of the LME/MCO, unless the agreement is for inpatient hospitalization, in
10 which case the LME/MCO may, but shall not be required to, enter into more
11 than five such out-of-network agreements with a single hospital or health
12 system in any 12-month period.

13 **SECTION 12H.3.(b)** Medicaid providers providing services pursuant to an
14 out-of-network agreement shall be considered a network provider for purposes of Chapter
15 108D of the General Statutes only as it relates to enrollee grievances and appeals.
16

17 **PROVIDER APPLICATION AND RECREDENTIALING FEE**

18 **SECTION 12H.4.** The Department of Health and Human Services, Division of
19 Medical Assistance, shall charge an application fee of one hundred dollars (\$100.00), and the
20 amount federally required, to each provider enrolling in the Medicaid Program for the first
21 time. The fee shall be charged to all providers at recredentialing every three years.
22

23 **REIMBURSEMENT FOR IMMUNIZING PHARMACIST SERVICES**

24 **SECTION 12H.5.(a)** Effective January 1, 2016, the Department of Health and
25 Human Services, Division of Medical Assistance (Department), shall provide Medicaid and NC
26 Health Choice reimbursement for the administration of covered vaccinations or immunizations
27 provided by immunizing pharmacists in accordance with G.S. 90-85.15B.

28 **SECTION 12H.5.(b)** In order to implement the requirements of subsection (a) of
29 this section, the Department shall enroll immunizing pharmacists as providers.

30 **SECTION 12H.5.(c)** The Department shall submit any State plan amendments
31 necessary to accomplish the requirements of this section.
32

33 **TRAUMATIC BRAIN INJURY MEDICAID WAIVER**

34 **SECTION 12H.6.(a)** The Department of Health and Human Services, Division of
35 Medical Assistance and Division of Mental Health, Developmental Disabilities, and Substance
36 Abuse Services (Department), shall submit to the Centers for Medicare and Medicaid Services
37 a request for approval of the 1915(c) waiver for individuals with traumatic brain injury (TBI)
38 that the Department designed pursuant to Section 12H.6 of S.L. 2014-100, which the Joint
39 Legislative Oversight Committee on Health and Human Services recommended as part of its
40 December 2014 report to the General Assembly, and which is further described in the
41 Department's February 1, 2015, report to the General Assembly.

42 **SECTION 12H.6.(b)** The Department shall report to the Joint Legislative
43 Oversight Committee on Health and Human Services on the status of the Medicaid TBI waiver
44 request and the plan for implementation no later than December 1, 2015. The Department shall
45 submit an updated report by March 1, 2016. Each report shall include the following:

- 46 (1) The number of individuals who are being served under the waiver and the
47 total number of individuals expected to be served.
- 48 (2) The expenditures to date and a forecast of future expenditures.
- 49 (3) Any recommendations regarding expansion of the waiver.

50 **SECTION 12H.6.(c)** Of the funds appropriated to the Department of Health and
51 Human Services, Division of Medical Assistance, two million dollars (\$2,000,000) for fiscal

1 year 2015-2016 and two million dollars (\$2,000,000) for fiscal year 2016-2017 shall be used to
2 fund the Medicaid TBI waiver.

4 **STUDY MEDICAID COVERAGE FOR VISUAL AIDS**

5 **SECTION 12H.6A.** The Department of Health and Human Services, Division of
6 Medical Assistance, in consultation with the Department of Public Safety, shall submit a report
7 to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal
8 Research Division by October 1, 2015, containing an analysis of the fiscal impact to the State
9 of reinstating Medicaid coverage for visual aids for adults utilizing a contract with the
10 Department of Public Safety for fabrication of the eyeglasses at Nash Optical Plant Optical
11 Laboratory. The report shall also analyze the cost of reinstating Medicaid coverage for routine
12 eye examinations for adults in addition to the coverage for visual aids.

14 **ASSESSMENTS**

15 **SECTION 12H.7.** G.S. 108A-122(b) reads as rewritten:

16 "(b) Allowable Cost. – An assessment paid under this Article may be included as
17 allowable costs of a hospital for purposes of any applicable Medicaid reimbursement ~~formula-~~
18 formula; assessments paid under this Article shall be excluded from cost settlement. An
19 assessment imposed under this Article may not be added as a surtax or assessment on a patient's
20 bill."

22 **LME/MCO TRANSFER OF FUNDS TO RISK RESERVE**

23 **SECTION 12H.8.(a)** After the local management entities/managed care
24 organizations (LME/MCOs) have allocated funds to cover the reduction in single stream
25 funding required by Section 12F.2 of this act, the Department of Health and Human Services,
26 Division of Medical Assistance, shall require LME/MCOs to transfer funds from their
27 operating cash reserves to their contractually-required risk reserve account in an amount
28 sufficient so that the funds in the risk reserve account equal fifteen percent (15%) of annual
29 premiums. The Department shall not require LME/MCOs to transfer from their operating cash
30 reserves the amount needed to make up the difference between the current month's claims
31 payments and the capitation payment received for the month.

32 **SECTION 12H.8.(b)** The Department shall discontinue paying the two percent
33 (2%) added to the administrative payment of an LME/MCO when the amount in the
34 LME/MCO's risk reserve account reaches fifteen percent (15%) of annual premiums.

35 **SECTION 12H.8.(c)** The Department shall work with LME/MCOs to consolidate
36 their multiple existing reserve accounts so that each LME/MCO has only one reserve account.

38 **ADMINISTRATIVE HEARINGS FUNDING**

39 **SECTION 12H.9.** Of the funds appropriated to the Department of Health and
40 Human Services, Division of Medical Assistance, for administrative contracts and interagency
41 transfers, the Department of Health and Human Services (Department) shall transfer the sum of
42 one million dollars (\$1,000,000) for the 2015-2016 fiscal year and the sum of one million
43 dollars (\$1,000,000) for the 2016-2017 fiscal year to the Office of Administrative Hearings
44 (OAH). These funds shall be allocated by the OAH for mediation services provided for
45 Medicaid applicant and recipient appeals and to contract for other services necessary to conduct
46 the appeals process. OAH shall continue the Memorandum of Agreement (MOA) with the
47 Department for mediation services provided for Medicaid recipient appeals and contracted
48 services necessary to conduct the appeals process. The MOA will facilitate the Department's
49 ability to draw down federal Medicaid funds to support this administrative function. Upon
50 receipt of invoices from OAH for covered services rendered in accordance with the MOA, the
51 Department shall transfer the federal share of Medicaid funds drawn down for this purpose.

ACCOUNTING FOR MEDICAID RECEIVABLES AS NONTAX REVENUE

SECTION 12H.10.(a) Receivables reserved at the end of the 2015-2016 and 2016-2017 fiscal years shall, when received, be accounted for as nontax revenue for each of those fiscal years.

SECTION 12H.10.(b) For the 2015-2016 fiscal year, the Department of Health and Human Services shall deposit from its revenues one hundred thirty-nine million dollars (\$139,000,000) with the Department of State Treasurer to be accounted for as nontax revenue. For the 2016-2017 fiscal year, the Department of Health and Human Services shall deposit from its revenues one hundred thirty-nine million dollars (\$139,000,000) with the Department of State Treasurer to be accounted for as nontax revenue. These deposits shall represent the return of General Fund appropriations, nonfederal revenue, fund balances, or other resources from State-owned and State-operated hospitals which are used to provide indigent and nonindigent care services. The return from State-owned and State-operated hospitals to DHHS will be made from nonfederal resources in an amount equal to the amount of the payments from the Division of Medical Assistance for uncompensated care. The treatment of any revenue derived from federal programs shall be in accordance with the requirements specified in the Code of Federal Regulations, Title 2, Part 225.

MEDICAID SPECIAL FUND TRANSFER

SECTION 12H.11. Of the funds transferred to the Department of Health and Human Services for Medicaid programs pursuant to G.S. 143C-9-1, there is appropriated from the Medicaid Special Fund to the Department of Health and Human Services the sum of forty-three million dollars (\$43,000,000) for the 2015-2016 fiscal year and the sum of forty-three million dollars (\$43,000,000) for the 2016-2017 fiscal year. These funds shall be allocated as prescribed by G.S. 143C-9-1(b) for Medicaid programs. Notwithstanding the prescription in G.S. 143C-9-1(b) that these funds not reduce State general revenue funding, these funds shall replace the reduction in general revenue funding effected in this act.

MISCELLANEOUS MEDICAID PROVISIONS

SECTION 12H.12.(a) Volume Purchase Plans and Single Source Procurement. – The Department of Health and Human Services, Division of Medical Assistance, may, subject to the approval of a change in the State Medicaid Plan, contract for services, medical equipment, supplies, and appliances by implementation of volume purchase plans, single source procurement, or other contracting processes in order to improve cost containment.

SECTION 12H.12.(b) Cost Containment Programs. – The Department of Health and Human Services, Division of Medical Assistance, may undertake cost containment programs, including contracting for services, preadmissions to hospitals, and prior approval for certain outpatient surgeries before they may be performed in an inpatient setting.

SECTION 12H.12.(c) Medicaid Identification Cards. – The Department shall issue Medicaid identification cards to recipients on an annual basis with updates as needed.

MISCELLANEOUS HEALTH CHOICE PROVISIONS

SECTION 12H.14.(a) G.S. 108A-70.18(4a) is repealed.

SECTION 12H.14.(b) G.S. 108A-70.20 reads as rewritten:

"§ 108A-70.20. Program established.

The Health Insurance Program for Children is established. The Program shall be known as North Carolina Health Choice for Children, and it shall be administered by the Department of Health and Human Services in accordance with this Part and as required under Title XXI and related federal rules and regulations. Administration of Program benefits and claims processing

1 shall be as ~~provided under Part 5 of Article 3 of Chapter 135 of the General Statutes described~~
2 in 42 C.F.R. § 447.45(d)(1)."

3 **SECTION 12H.14.(c)** Subsections (g) and (h) of G.S. 108A-70.21 are repealed.

4 **SECTION 12H.14.(d)** G.S. 108A-70.21(i) reads as rewritten:

5 "(i) ~~No Lifetime Maximum Benefit Limit.~~—Benefits provided to an enrollee in the
6 Program ~~shall not be subject to a maximum lifetime limit.~~may be subject to lifetime maximum
7 limits set forth in Medicaid and NC Health Choice medical coverage policies adopted pursuant
8 to G.S. 108A-54.2."

9 **SECTION 12H.14.(e)** G.S. 108A-70.27(c) is repealed.

10 **REINSTATE COST SETTLEMENT PURSUANT TO 1993 STATE AGREEMENT**

11 **SECTION 12H.17.** Effective July 1, 2015, the cost settlement for outpatient
12 Medicaid services performed by Vidant Medical Center, which was previously known as Pitt
13 County Memorial Hospital, shall be at one hundred percent (100%) of allowable costs.

14 **COVERED SERVICES AND PAYMENT FOR SERVICES**

15 **SECTION 12H.18.** Except as otherwise specifically provided in this act or another
16 act passed during the 2015 Regular Session, the authorized State plan services, co-pays,
17 reimbursement rates, and fees shall remain the same as those authorized as of June 30, 2015.

18 **DRUG REIMBURSEMENT USING AVERAGE ACQUISITION COST**

19 **SECTION 12H.19.(a)** The Department of Health and Human Services, Division of
20 Medical Assistance, (Department) shall adopt an average acquisition cost methodology for
21 brand and generic drug ingredient pricing to be effective beginning on January 1, 2016. The
22 drug ingredient pricing methodology shall be consistent with new federal requirements or, if
23 the new federal requirements have not yet been finalized by July 1, 2015, consistent with the
24 most recent draft federal requirements. In adopting a new drug ingredient pricing methodology,
25 the Department shall also do all of the following:

- 26 (1) Raise the average dispensing fee to a weighted average amount that does not
27 exceed twelve dollars (\$12.00).
- 28 (2) Set actual dispensing fees that maintain a higher dispensing fee for preferred
29 and generic drugs and a lower dispensing fee for brand and nonpreferred
30 drugs.
- 31 (3) Ensure that ingredient prices are updated at least monthly.

32 **SECTION 12H.19.(b)** In addition to the requirements in subsection (a) of this
33 section, the Department may also set tiered dispensing fees that establish a higher dispensing
34 fee for providers who dispense a lower volume of prescriptions and a lower dispensing fee for
35 providers who dispense a higher volume of prescriptions, as long as the weighted average
36 amount of all the tiered dispensing fees does not exceed twelve dollars (\$12.00).

37 **SECTION 12H.19.(c)** In order to implement this section, the Department shall
38 either amend the State plan amendment request submitted to the Centers for Medicare and
39 Medicaid Services (CMS) pursuant to Section 12H.8 of S.L. 2014-100 so that it conforms with
40 the requirements of this section or shall withdraw that State plan amendment and submit a new
41 State plan amendment request to CMS that conforms with the requirements of this section, in
42 accordance with the procedures set forth in G.S. 108A-54.1A.

43 **MEDICAID DENTAL SERVICE COST SETTLEMENT**

44 **SECTION 12H.20.** The Department of Health and Human Services, Division of
45 Medical Assistance, shall submit a State Plan Amendment request to the Centers for Medicare
46 and Medicaid Services to assure that all State-operated dental schools receive the same
47 reimbursement for dental services provided to North Carolina Medicaid beneficiaries.

MOBILE DENTAL PROVIDER ENROLLMENT

SECTION 12H.21. For mobile dental providers seeking enrollment as a Medicaid provider, and upon reenrollment of current Medicaid mobile dental providers, the Department of Health and Human Services, Division of Medicaid Assistance, shall require as a condition of enrollment or reenrollment that the mobile dental provider show proof of a contractual affiliation with dental practice that is not mobile, and the Department shall require the mobile dental provider to use the National Provider Identifier (NPI) of the non-mobile dental practice for purposes of filing claims.

INCREASE RATES FOR PRIVATE DUTY NURSING

SECTION 12H.22. Effective January 1, 2016, the Department of Health and Human Services, Division of Medical Assistance, shall increase by ten percent (10%) the rate paid for private duty nursing services provided pursuant to Clinical Coverage Policy 3G.

RESTRICTING GRADUATE MEDICAL PAYMENTS

SECTION 12H.23.(a) The Department of Health and Human Services shall submit a State Plan Amendment to modify Section 4.19-A of the Medicaid State Plan, such that, effective October 1, 2015, no Medicaid provider may receive reimbursement for Graduate Medical Education (GME) in addition to their DRG Unit Value (Base) rate under the methodology as defined in the current Medicaid State Plan.

SECTION 12H.23.(b) This modification shall be implemented upon approval by the Centers for Medicare and Medicaid Services (CMS).

SECTION 12H.23.(c) The Department of Health and Human Services, Division of Medical Assistance, shall be exempt from the 90-day prior submission requirement in G.S. 108A-54.1A in order to submit the State Plan amendment required to implement this section.

MEDICAID TRANSFORMATION AND REORGANIZATION

SECTION 12H.24.(a) Intent and Goals. – It is the intent of the General Assembly to transform the State's current Medicaid program to a program that provides budget predictability for the taxpayers of this State while ensuring quality care to those in need. The new Medicaid program shall be designed to achieve the following goals:

- (1) Ensure budget predictability through shared risk and accountability.
- (2) Ensure balanced quality, patient satisfaction, and financial measures.
- (3) Ensure efficient and cost-effective administrative systems and structures.
- (4) Ensure a sustainable delivery system.

SECTION 12H.24.(b) Structure of Delivery System. – The transformed Medicaid program described in subsection (a) of this section shall be organized according to the following principles and parameters:

- (1) The Health Benefits Authority (Authority), created in subsection (h1) of this section, shall have full budget and regulatory authority to manage the State's Medicaid and NC Health Choice programs, except the General Assembly shall determine eligibility categories and income thresholds.
- (2) Among its initial tasks, the Authority shall:
 - a. Determine the structural and financial qualifications required for managed care organizations (MCOs) and provider-led entities (PLEs). The majority of the members of a PLE's governing board shall be composed of providers as defined in G.S. 108C-2 or entities composed of providers.

- 1 b. Designate six regions within the State. Regions must be composed of
2 whole counties. Regions do not have to be contiguous, and it is not
3 the intent of the General Assembly to require that every county be
4 included in at least one of the six regions.
- 5 (3) The Authority shall enter into contractual relationships with MCOs and
6 PLEs for the delivery of all Medicaid health care items and services. All
7 contracts shall be the result of a request for proposals (RFP) issued by the
8 Authority and the submission of competitive bids by MCOs and PLEs. The
9 governing principles and minimum terms and conditions of the RFPs, bids,
10 and contracts are described in subsection (d) of this section.
- 11 (4) The number and nature of the contracts required under subdivision (3) of this
12 subsection shall be as follows:
- 13 a. Three contracts between the Authority and any combination of
14 individual MCOs and individual PLEs. Each of these contracts shall
15 provide statewide coverage for all Medicaid health care items and
16 services (statewide contracts).
- 17 b. Up to 12 contracts between the Authority and individual PLEs for
18 coverage of specified regions (regional contracts). Regional contracts
19 shall be in addition to the three statewide contracts required under
20 sub-subdivision a. of this subdivision. Each regional contract shall
21 provide coverage throughout the entire region for all Medicaid health
22 care items and services. A PLE may bid on more than one region.
23 The Authority shall have full discretion to enter into one, two, or no
24 regional contracts in any region.
- 25 (5) As a result of the contracts entered into by the Authority under subdivision
26 (3) of this subsection, a recipient shall have at least three, but no more than
27 five enrollment choices for the provision of all Medicaid health care items
28 and services. The Authority shall provide for annual open enrollment periods
29 and shall determine the process for assigning recipients who do not select a
30 MCO or PLE during the enrollment period.

31 **SECTION 12H.24.(c)** Time Line. – The following milestones for Medicaid
32 transformation shall occur no later than the following dates:

- 33 (1) When this act becomes law. -
- 34 a. The Health Benefits Authority is created pursuant to subsection (h1)
35 of this section and appointments to the Authority's Board shall be
36 made pursuant to G.S. 143B-1405.
- 37 b. The Joint Legislative Oversight Committee on the Health Benefits
38 Authority (LOC-HBA) is created pursuant to subsection (l) of this
39 section to oversee the Medicaid and NC Health Choice programs.
- 40 (2) September 1, 2015. – The Department of Health and Human Services
41 (Department) shall establish the Medicaid stabilization team pursuant to
42 subsection (g) of this section.
- 43 (3) October 1, 2015. -
- 44 a. The Authority is designated as the single state agency for the
45 administration of Medicaid and NC Health Choice.
- 46 b. The Department and the Authority shall enter into agreements
47 necessary for the Authority to supervise the Department's
48 administration of the Medicaid and NC Health Choice programs.
- 49 (4) February 1, 2016. – The Authority shall submit requests for waivers and
50 State Plan amendments to the Centers for Medicare and Medicaid Services
51 necessary to implement Medicaid transformation.

- 1 (5) March 1, 2016. – The Authority shall report recommended statutory changes
2 to the North Carolina General Statutes to the LOC-HBA.
3 (6) April 1, 2017. – The initial recipient enrollment period begins.
4 (7) August 1, 2017. – Capitated full-risk contracts begin.

5 **SECTION 12H.24.(d)** Requests for Proposals; Bids; Terms & Conditions of
6 Contracts. – The following shall be components of the initial RFPs, responsive bids to the
7 initial RFPs, and the initial contracts that are required under subsection (b) of this section.

- 8 (1) An RFP may solicit bids for a statewide contract, a regional contract, or
9 both, and may propose variable contract durations.
10 (2) RFPs must require at least all of the following:
11 a. Full-risk capitation for all Medicaid health care items and services.
12 b. Coverage for all program aid categories except the dual eligible
13 categories for which Medicaid only pays Medicare premiums.
14 c. All bidders meet solvency requirements established by the
15 Department of Insurance pursuant to subsection (k1) of this section.
16 d. All bidders meet the same standards and metrics for risk, outcomes,
17 and quality.
18 e. All bidders establish appropriate networks or providers to deliver
19 services.
20 f. All bidders subcontract with existing LME/MCOs for behavioral
21 health services for up to three years at a capitation rate that is no less
22 than the most recently negotiated rate for the then current scope of
23 benefits paid to LME/MCOs.
24 g. All bidders agree not to limit providers' ability to contract with other
25 MCOs and PLEs.
26 h. All bidders must connect to the Health Information Exchange
27 Network or any successor information technology entity or
28 architecture specified by the Authority in order to ensure effective
29 systems and connectivity to support clinical coordination of care,
30 exchange of information, and the availability of data to the Authority
31 to manage the Medicaid and NC Health Choice program for the
32 State.
33 i. All bidders ensure that their contracts with providers include
34 value-based payment systems that support the achievement of overall
35 performance, quality, and outcome measures.
36 (3) All bids must respond to the requirements of subdivision (2) of this
37 subsection and must also include at least all of the following:
38 a. For statewide contracts, a description of how the MCO or PLE will
39 ensure access to appropriate care throughout the State.
40 b. For regional contracts, a description of how the PLE will ensure
41 access to appropriate care throughout the region.
42 c. Proposed competitive medical loss ratios.
43 d. Proposed full-risk capitated rates based on Centers for Medicare and
44 Medicaid Services (CMS) actuarial soundness and industry standards
45 as well as risk adjusted rate ranges using claims data from fiscal year
46 2014-2015. Actuarial calculations must include utilization
47 assumptions consistent with industry and local standards.
48 e. Methods to ensure program integrity against provider fraud, waste,
49 and abuse at all levels.
50 (4) In addition to the requirements of subdivisions (1) through (3) of this
51 subsection, each contract must provide for all of the following:

- 1 a. Negotiated full-risk capitated rates, including a portion that is at risk
- 2 for achievement of quality and outcome measures.
- 3 b. Negotiated competitive medical loss ratios.
- 4 c. Compliance by the MCO or PLE with all CMS requirements for the
- 5 Medicaid and NC Health Choice programs.
- 6 d. Defined measures and goals for risk adjusted health outcomes,
- 7 quality of care, patient satisfaction, and cost. Each component must
- 8 be measured and monitored continually and reported at set intervals
- 9 as determined by the Authority. Each component shall be subject to
- 10 specific accountability measures, including penalties. The Authority
- 11 may use organizations such as National Committee for Quality
- 12 Assurance (NCQA), Physician Consortium for Performance
- 13 Improvement (PCPI), Healthcare Effectiveness Data and Information
- 14 Set (HEDIS), or any others necessary to develop effective measures
- 15 for outcomes and quality.
- 16 e. Acceptance of full responsibility by the MCO or PLE for all
- 17 grievance and appeals.
- 18 f. Ability of the MCO or PLE to exclude providers from networks
- 19 based on economic or quality standards.
- 20 g. Ability of the MCO or PLE to terminate the capitation rate required
- 21 under sub-subdivision f. of subdivision (2) of this subsection if
- 22 termination of the rate is mutually agreed to by the LME/MCO.
- 23 h. Agreement that covered benefits will not be reduced from the
- 24 covered services in effect on the date the contract is awarded except
- 25 in instances where the Authority reduces a covered service for all
- 26 recipients and for all contracts.

27 **SECTION 12H.24.(e)** Monthly Progress Report. – Beginning November 1, 2015,
28 and monthly thereafter until October 1, 2018, the Health Benefits Authority shall report to the
29 LOC-HBA and the Fiscal Research Division on the State's progress toward completing
30 Medicaid transformation. The March 1, 2016, report shall contain proposed changes to the
31 North Carolina General Statutes that are necessary to implement Medicaid transformation.

32 **SECTION 12H.24.(f)** Maintain Funding Mechanisms. – In developing the waivers
33 and State Plan amendments necessary to implement this section, the Authority shall work with
34 the Centers for Medicare & Medicaid Services (CMS) to attempt to preserve existing levels of
35 funding generated from Medicaid-specific funding streams, such as assessments, to the extent
36 that the levels of funding may be preserved. If such Medicaid-specific funding cannot be
37 maintained as currently implemented, then the Authority shall advise the LOC-HBA created in
38 subsection (h1) of this section of any modifications necessary to maintain as much revenue as
39 possible within the context of Medicaid transformation. If such Medicaid-specific funding
40 streams cannot be preserved through the transformation process or if revenue would decrease, it
41 is the intent of the General Assembly to modify such funding streams so that any supplemental
42 payments to providers are more closely aligned to improving health outcomes and achieving
43 overall Medicaid goals.

44 **SECTION 12H.24.(g)** DHHS Role in Medicaid Transformation. – During
45 Medicaid transformation, the Department of Health and Human Services, Division of Medical
46 Assistance (Division), shall cooperate with the Authority to ensure a smooth transition of the
47 Medicaid and NC Health Choice programs and shall perform all of the following functions:

- 48 (1) The Department and the Authority shall enter into agreements necessary for
- 49 the Authority to supervise the Department's administration of the Medicaid
- 50 and NC Health Choice programs until the transformed Medicaid program is
- 51 completed.

- 1 (2) The Department of Health and Human Services, Office of the Secretary,
2 (Office of the Secretary) shall organize a Medicaid stabilization team to do
3 the following:
- 4 a. Maintain the Medicaid and NC Health Choice programs until
5 Medicaid transformation has been completed.
 - 6 b. Work with the Authority during the transition.
 - 7 c. Develop strategies to successfully complete the requirements of
8 sub-subdivisions a. and b. of this subdivision.
 - 9 d. Make recommendations to the LOC-HBA on any additional
10 authorization or funding necessary to successfully complete the
11 requirements of sub-subdivisions a. and b. of this subdivision.
 - 12 e. With assistance from the Office of State Human Resources, conduct
13 interviews and meetings with designated essential employees of the
14 Division to explain the transition process, including options for the
15 employees and the bonus payment system established under this
16 subsection.
 - 17 f. No later than September 1, 2015, report to the LOC-HBA on the plan
18 to communicate to employees, as required by sub-subdivision e. of
19 this subdivision.
- 20 (3) The Office of the Secretary shall identify the key managers, leaders, and
21 decision makers to be part of the stabilization team and, no later than
22 September 1, 2015, shall submit a list of these people and their roles to the
23 Authority and the LOC-HBA.
- 24 (4) No later than September 1, 2015, the Secretary of Health and Human
25 Services (Secretary) shall identify and designate "essential positions"
26 throughout the Department without which the Medicaid and NC Health
27 Choice programs could not operate on a day-to-day basis. Such positions
28 designated by the Secretary may include any position, whether subject to or
29 exempt from the State Personnel Act or whether supervisory or
30 nonsupervisory, as long as the position is essential to the operation of
31 Medicaid or NC Health Choice. Because the designation is based on the
32 functions to be performed and because of the nature of the bonuses provided
33 under this subsection, the designation of a position as essential may not be
34 revoked, and the Secretary may designate both open and filled positions.
- 35 (5) In order to encourage employees to remain in their positions working on
36 Medicaid and NC Health Choice within the Department, employees serving
37 in positions designated as essential positions under this subsection shall be
38 eligible for the following benefits:
- 39 a. Effective August 1, 2015, any employee working in a designated
40 essential position within the Division shall receive a bonus at each
41 pay period that is equal to five percent (5%) of the employee's
42 earnings for that period.
 - 43 b. Effective August 1, 2015, any employee working in a designated
44 essential position within the Department, but outside of the Division,
45 whose salary is paid with federal Medicaid funds shall also receive a
46 five percent (5%) bonus, paid in the same manner as bonuses are
47 paid under sub-subdivision a. of this subdivision. If such an
48 employee working outside of the Division does not work full-time on
49 Medicaid issues, then the amount of the bonus shall be calculated by
50 first multiplying the employee's earnings for that period by the

1 percentage of the employee's time spent on Medicaid issues and then
2 multiplying that product by five percent (5%).

3 c. Any employee who received bonus payments under sub-subdivisions
4 a. or b. of this subdivision who is still employed within the Division
5 or within the Department as of July 31, 2017, or who is employed
6 within the Authority, shall receive a final bonus payment equal to the
7 sum of all the bonus payments that the employee had received since
8 July 1, 2015, under sub-subdivision a. of this subdivision. No
9 employee departing before July 31, 2017, shall be eligible to receive
10 any portion of such a final bonus payment, and no property right is
11 created by this subsection for employees that depart before July 31,
12 2017.

13 d. The bonus payments paid under this subsection are made
14 notwithstanding G.S. 126-4(2) or any other provision of law.
15 Notwithstanding G.S. 135-1(7a), bonus payments paid under this
16 subsection shall not count as "compensation" for purposes of the
17 Retirement System for Teachers and State Employees, nor shall the
18 Department of Health and Human Services be required to make
19 payments to the Retirement System based on the amounts paid as
20 bonuses. Additionally, bonus payments paid under this subsection
21 shall not count as "compensation" or "salary" for calculating
22 severance payments under G.S. 126-8.5 or calculating unemployment
23 benefits.

24 (6) The Department shall not enter into any new contracts, or renew or extend
25 any contracts that existed prior to the effective date of this subsection,
26 related to the Medicaid or NC Health Choice programs without the express
27 prior approval of the Board of the Authority. The Department and the
28 Division shall ensure that any Medicaid-related or NC Health Choice-related
29 State contract entered into after the effective date of this act contains a
30 clause that allows the Department or the Division to terminate the contract
31 without cause upon 30 days' notice. Any contract signed by the Department
32 or the Division after the effective date of this act that lacks such a
33 termination clause shall, nonetheless, be deemed to include such a clause
34 and shall be cancellable without cause upon 30 days' notice.

35 **SECTION 12H.24.(h1)** Creation of Health Benefits Authority. – Effective when
36 this act becomes law, the Health Benefits Authority as established in this section shall be a
37 single, unified cabinet-level department. In accordance with the time line set out in subsection
38 (c) of this section, the Health Benefits Authority shall administer and operate all functions,
39 powers, duties, obligations, and services related to the Medicaid and NC Health Choice
40 programs. In accordance with the time line set out in subsection (c) of this section, all
41 functions, powers, duties, obligations, and services vested in the Department of Health and
42 Human Services, Division of Medical Assistance, are vested in the Health Benefits Authority.

43 **SECTION 12H.24.(h2)** G.S. 143B-6 reads as rewritten:

44 **"§ 143B-6. Principal departments.**

45 In addition to the principal departments enumerated in the Executive Organization Act of
46 1971, all executive and administrative powers, duties, and functions not including those of the
47 General Assembly and its agencies, the General Court of Justice and the administrative
48 agencies created pursuant to Article IV of the Constitution of North Carolina, and higher
49 education previously vested by law in the several State agencies, are vested in the following
50 principal departments:

51 ...

1 (12) Health Benefits Authority."

2 **SECTION 12H.24.(h3)** Chapter 143B of the General Statutes is amended by
3 adding a new Article to read:

4 "Article 14.

5 "Health Benefits Authority.

6 "§ 143B-1400. Creation and organization.

7 There is hereby established the Health Benefits Authority (Authority) to administer and
8 operate the Medicaid and NC Health Choice programs. The Authority shall be governed by a
9 board, which shall be responsible for ensuring quality health outcomes to eligible recipients at a
10 predictable cost to the taxpayers of this State. The Authority shall be the designated single State
11 agency for the administration and operation of the Medicaid and NC Health Choice programs.

12 "§ 143B-1405. Board of the Health Benefits Authority.

13 (a) The Board of the Health Benefits Authority shall consist of the following:

14 (1) Three members appointed by the Governor.

15 (2) Two members appointed by the General Assembly, on the recommendation
16 of the President Pro Tempore of the Senate.

17 (3) Two members appointed by the General Assembly, on the recommendation
18 of the Speaker of the House of Representatives.

19 (4) The Secretary of Health and Human Services or the Secretary's designee,
20 who shall serve as an ex officio nonvoting member of the Board.

21 (b) Each appointed member of the board shall have expertise from at least one of the
22 following areas:

23 (1) The administration of large health delivery systems.

24 (2) Health insurance.

25 (3) Health actuarial science.

26 (4) Health economics.

27 (5) Health law and policy.

28 In making appointments to the Board under this section, each appointing authority shall consult
29 with the other appointing authorities to ensure adequate representation from all of the areas of
30 expertise listed in this subsection.

31 (c) The following individuals may not serve on the Board:

32 (1) An individual who receives or has received Medicaid payments during the
33 six months prior to serving on the Board for providing health care or
34 services to enrollees of the North Carolina Medicaid or NC Health Choice
35 programs.

36 (2) An individual who is or has been during the six months prior to serving on
37 the Board a registered lobbyist for a provider, or association of providers,
38 receiving payments from the North Carolina Medicaid or NC Health Choice
39 programs, or an employee of such a lobbyist.

40 (3) An individual who has, within six months of appointment, been an officer or
41 employee of the State.

42 As used in this subsection, the term "provider" includes any parent, subsidiary, or affiliated
43 legal entity, and the term "provider" has the same meaning as defined under G.S. 108C-2.

44 (d) Board members appointed under subdivision (1) through (3) of subsection (a) of this
45 section shall serve for a term of four years. The Governor shall have the power to remove any
46 member of the Board from office for misfeasance, malfeasance, or nonfeasance in accordance
47 with the provisions of G.S. 143B-13 of the Executive Organization Act of 1973. Appointing
48 authorities shall fill any vacancies that arise to complete the term of the vacating Board
49 member.

50 (e) In making the initial appointments, the appointing authorities shall, in order to
51 stagger terms, designate one person appointed under subdivision (1) of subsection (a) of this

1 section, one person appointed under subdivision (2) of subsection (a) of this section, and one
2 person appointed under subdivision (3) of subsection (a) of this section to serve until June 30,
3 2017. The remaining four appointees shall serve until June 30, 2019. Future appointees shall
4 serve terms of four years, with staggered terms based on this section. Board members may
5 serve up to two consecutive terms, not including the abbreviated two-year terms that establish
6 staggered terms or terms of less than two years that result from the filling of a vacancy.

7 (f) The Governor shall designate a chair of the Board from among the appointed voting
8 members of the Board. The Board member designated as the chair shall serve as a chair at the
9 pleasure of the Governor. The chair shall serve on the Governor's Cabinet. If the Governor does
10 not appoint a chair, the Board may select a chair from among its voting members. The
11 Board-selected chair shall serve in that capacity until such time as the Governor appoints a
12 chair.

13 (g) The Board shall meet at least monthly until August 1, 2017, and at least quarterly
14 thereafter. The Board may also meet at the call of the chair or at the request of a majority of the
15 voting Board members. A majority of the voting Board members constitutes a quorum for
16 conducting business.

17 (h) The voting members of the Board are State officers and not State employees. No
18 voting member may serve on the Board while employed as a State employee.

19 (i) The voting members of the Board shall be compensated in an amount sufficient to
20 obtain quality professionals with experience managing large businesses, insurance programs,
21 and health systems. The initial compensation for voting Board members shall be established by
22 the Office of State Human Resources no later than October 1, 2015. Thereafter, the
23 compensation of voting Board members shall be set by the Board under G.S. 143B-1410(3) and
24 shall be comparable to compensation paid to the members of boards operating large health
25 insurance plans but shall not exceed the highest compensation paid to a member of the Council
26 of State. When adjusting members' compensation, the Board shall provide a justification to the
27 Office of State Human Resources based upon a survey of comparable health insurance plans.

28 **"§ 143B-1410. Powers and duties of the Board of the Health Benefits Authority.**

29 (a) The Board of the Health Benefits Authority shall have the following powers and
30 duties:

- 31 (1) Administer and operate the Medicaid and NC Health Choice programs.
32 None of the powers and duties enumerated in the other subdivisions of this
33 subsection shall be construed to limit the broad grant of authority to
34 administer and operate the Medicaid and NC Health Choice programs.
- 35 (2) Employ the Medicaid Director, who shall be responsible for the daily
36 operation of the Authority, and other staff, including legal staff. In hiring
37 staff, the Board may offer employment contracts for a term.
- 38 (3) Set compensation for the employees, including performance-based bonuses
39 based on meeting budget or other targets, and for the voting Board members.
- 40 (4) Procure office space for the Authority.
- 41 (5) Notwithstanding G.S. 143-64.20, enter into contracts for the administration
42 of the Medicaid and NC Health Choice programs, as well as manage such
43 contracts, including contracts of a consulting or advisory nature.
- 44 (6) Employ or contract for independent internal auditing staff that report directly
45 to the Board rather than to the Medicaid Director. Notwithstanding
46 subsection (b) of this section, this function may not be delegated.
- 47 (7) Pursuant to G.S. 108A-1, supervise the county departments of social services
48 in their administration of eligibility determinations. Pursuant to subdivision
49 (5) of this subsection, the Board may contract with the Department of Health
50 and Human Services or any other appropriate party to perform this task or a
51 portion of this task.

- 1 (8) Define and approve the following for the Authority and the programs
2 managed by the Authority:
3 a. Business policy.
4 b. Strategic plans, including desired health outcomes for the covered
5 populations, which shall do the following:
6 1. Be developed at a frequency of no less than every five years
7 with the input of stakeholders.
8 2. Identify key opportunities and challenges facing the
9 organization.
10 3. Identify the Authority's strengths and weaknesses to address
11 these opportunities and challenges.
12 4. Identify key goals for the Authority for this time period,
13 consistent with the reform goals identified by the General
14 Assembly.
15 5. Identify output and outcome performance measures to
16 quantify the Authority's progress toward these goals.
17 6. Identify strategies to reach these goals.
18 7. Be used as a guide for units within the Authority to establish
19 unit-specific operational plans at the same frequency.
20 c. Performance management system, including quantitative indicators
21 for goals and objectives, which shall do the following:
22 1. Be developed and implemented within the first year of the
23 creation of the Authority, and updated no less than annually
24 thereafter with available data.
25 2. Establish quantitative performance measures focusing on the
26 quality and efficiency of service delivery and administration,
27 using a nationally recognized quality improvement effort
28 allowing comparison of North Carolina to other states as
29 those developed by, but not limited to, the federal Medicaid
30 Quality Measurement Program and the Baldrige Quality
31 Program.
32 3. Establish measurable objectives for each goal identified in the
33 strategic plan, and performance updated annually.
34 4. Establish, for each objective, benchmark activities, including
35 an estimated date of completion, the area for which efforts are
36 attempting a change, a quantitative indicator of success for
37 the area, and quarterly milestones allowing Authority
38 managers and employees to monitor progress throughout the
39 year.
40 5. Establish mechanisms for obtaining data necessary for the
41 collection and public distribution of performance information.
42 d. Program and policy changes.
43 e. Operational budget and assumptions.
44 (9) Establish and adjust all program components, except for eligibility, of the
45 Medicaid and NC Health Choice programs within the appropriated and
46 allocated budget.
47 (10) Adopt rules related to the Medicaid and NC Health Choice programs.
48 (11) Develop midyear budget correction plans and strategies and then take
49 midyear budget corrective actions necessary to keep the Medicaid and NC
50 Health Choice programs within budget.

- 1 (12) Approve or disapprove and oversee all expenditures to be charged to or
2 allocated to the Medicaid and NC Health Choice programs by other State
3 departments or agencies.
- 4 (13) Develop and present to the Joint Legislative Oversight Committee on the
5 Health Benefits Authority and the Office of State Budget and Management
6 by January 1 of each year, beginning in 2016, the following information for
7 the Medicaid and NC Health Choice programs:
- 8 a. A detailed four-year forecast of expected changes to enrollment
9 growth and enrollment mix.
- 10 b. What program changes will be made by the Authority in order to stay
11 within the existing budget for the programs based on the next fiscal
12 year's forecasted enrollment growth and enrollment mix.
- 13 c. The cost to maintain the current level of services based on the next
14 fiscal year's forecasted enrollment growth and enrollment mix.
- 15 (14) Secure and pay for the services of the State Auditor's Office to conduct
16 annual audits of the financial accounts of the Authority.
- 17 (15) Publish the Annual Medicaid Report, which shall contain, at a minimum, the
18 following:
- 19 a. Details on the Authority's performance over the prior four years on
20 the following:
- 21 1. The identified quantitative measures from its strategic plan
22 and performance management system.
- 23 2. A comparison of the identified quantitative measures from its
24 strategic plan and performance management system and other
25 states participating in the quality improvement effort.
- 26 b. Annual audited financial statements.
- 27 (16) Publish in an electronic format, and update on at least a monthly basis, at
28 least the following information about the Medicaid and NC Health Choice
29 programs:
- 30 a. Enrollment by program aid category by county.
- 31 b. Per member per month spending by category of service.
- 32 c. Spending and receipts by fund along with a detailed variance
33 analysis.
- 34 d. A comparison of the above figures to the amounts forecasted and
35 budgeted for the corresponding time period.
- 36 (b) The Board may delegate any of its powers and duties to the Medicaid Director and
37 other staff of the Authority and, upon adoption of an annual budget, shall delegate to the
38 Medicaid Director its powers and duties pursuant to sub-subdivisions d. and e. of subdivision
39 (8) of subsection (a) of this section. In delegating powers or duties, however, the Board
40 maintains the responsibility for the performance of those powers or duties.
- 41 (c) Pursuant to G.S. 108E-2-1, the General Assembly retains the authority to determine
42 the eligibility categories and income thresholds for the Medicaid and NC Health Choice
43 programs.
- 44 **§ 143B-1415. Variations from certain State laws.**
- 45 Although generally subject to the laws of this State, the following exemptions, limitations,
46 and modifications apply to the Health Benefits Authority, notwithstanding any other provision
47 of law:
- 48 (1) Employees of the Authority shall not be subject to the North Carolina
49 Human Resources Act, except as provided in G.S. 126-5(c1)(31).
- 50 (2) The Authority may retain private legal counsel and is not subject to
51 G.S. 114-2.3 or G.S. 147-17(a) through (c).

- 1 (3) The Authority's employment contracts offered pursuant to
2 G.S. 143B-1410(a)(2) are not subject to review and approval by the Office
3 of State Human Resources. The Authority's employment of supplementary
4 staff for temporary work is not subject to review and approval by the Office
5 of State Human Resources including the requirements of G.S. 126-6.3.
- 6 (4) If the Authority establishes alternative procedures for the review and
7 approval of contracts, then the Authority is exempt from State contract
8 review and approval requirements, but may still choose to utilize the State
9 contract review and approval procedures for particular contracts.
- 10 (5) The Board of the Authority may move into a closed session for any of the
11 reasons listed in G.S. 143-318.11, as well as for discussions on the
12 following:
- 13 a. Rates, contract amounts, or any other amounts to be paid to any
14 entity, including the amount of any transfers to any other State
15 agency or Division.
- 16 b. Audits and investigations.
- 17 c. Development of the annual budget forecast report for the General
18 Assembly, as required by G.S. 143B-1410(a)(14).
- 19 d. Development of a strategic plan.
- 20 e. Any report to be submitted to the General Assembly.
- 21 (6) Documents created for, or developed during, a closed session of the Board
22 for one of the reasons specifically listed in the sub-subdivisions of
23 subdivision (5) of this section, as well as any minutes from such a closed
24 session of the Board, that would otherwise become public record by
25 operation of Chapter 132 of the General Statutes, shall not become public
26 record until the item under discussion has been made public through the
27 publishing of the relevant rate or amount, findings from an audit or
28 investigation, the annual budget forecast report, the strategic plan, or a report
29 to the General Assembly.

30 **"§ 143B-216.1420. Cooling off period for certain Health Benefits Authority employees.**

31 (a) Ineligible Vendors. – The Board shall not contract for goods or services with a
32 vendor that employs or contracts with a person who is a former State Medicaid or NC Health
33 Choice employee and uses that person in the administration of a contract with the Authority.

34 (b) Vendor Certification. – The Medicaid Director shall require each vendor submitting
35 a bid or contract to certify that the vendor will not use a former Medicaid or NC Health Choice
36 employee in the administration of a contract with the Authority in violation of the provisions of
37 subsection (a) of this section. Any person who submits a certification required by this
38 subsection knowing the certification to be false shall be guilty of a Class I felony.

39 (c) A violation of the provisions of this section shall void the contract.

40 (d) Definitions. – As used in this section, the following terms mean:

41 (1) Administration of a contract. – Oversight of the performance of a contract,
42 authority to make decisions regarding a contract, interpretation of a contract,
43 or participation in the development of specifications or terms of a contract or
44 in the preparation or award of a contract.

45 (2) Former Medicaid or NC Health Choice employee. – A person who, for any
46 period within the preceding six months, was employed as an employee or
47 contract employee of the Authority, who in the six months immediately
48 preceding termination of State employment, participated personally in either
49 the award or management of an Authority contract with the vendor, or made
50 regulatory or licensing decisions that directly applied to the vendor.

51 **"§ 143B-216.1425. Medicaid Reserve Account.**

1 (a) The Medicaid Reserve Account is established as a nonreverting reserve in the
2 General Fund. The purpose of the Medicaid Reserve Account is to provide for unexpected
3 budgetary shortfalls within the Medicaid and NC Health Choice programs that result from
4 program expenditures in excess of the amount appropriated for the Medicaid and NC Health
5 Choice programs by the General Assembly and which continue to exist after the Health
6 Benefits Authority makes its best efforts to control costs through midyear budget corrections
7 under G.S. 143B-1410(a)(12).

8 (b) The Medicaid Reserve Account shall have the following minimum and maximum
9 target balances:

10 (1) Minimum target. – Five percent (5%) of a given fiscal year's General Fund
11 appropriations for capitation payments for both the Medicaid and NC Health
12 Choice programs.

13 (2) Maximum target. – Twelve percent (12%) of a given fiscal year's General
14 Fund appropriations for capitation payments for both the Medicaid and NC
15 Health Choice programs.

16 (c) Notwithstanding G.S. 143C-1-2(b), any funds appropriated to the Health Benefits
17 Authority for the Medicaid or NC Health Choice programs and that remain unencumbered at
18 the end of a fiscal year shall, rather than revert to the General Fund, be credited to the Medicaid
19 Reserve Account. Any funds to be deposited in the Medicaid Reserve Account that would
20 cause the fund balance to exceed the maximum target balance for the Medicaid Reserve
21 Account shall instead be credited to the General Fund.

22 (d) Medicaid Reserve Account funds may be disbursed by the Health Benefits
23 Authority to manage budgetary shortfalls in the Medicaid and NC Health Choice programs
24 only after all of the following occur:

25 (1) The Board of the Health Benefits Authority certifies that there is a projected
26 Medicaid shortfall in the current fiscal year.

27 (2) The Health Benefits Authority has already made midyear budget corrections
28 under G.S. 143B-1410(a)(12), but those midyear budget corrections have not
29 achieved the projected budget savings.

30 (3) The Health Benefits Authority reports to the Joint Legislative Commission
31 on Governmental Operations on its intent to disburse Medicaid Reserve
32 Account funds. The report shall include a detailed analysis of receipts,
33 payments, claims, and transfers, including an identification of and
34 explanation of the recurring and nonrecurring components of the shortfall.

35 Medicaid Reserve Account funds may be disbursed in accordance with this subsection even if it
36 results in the fund balance falling below the minimum target balance for the Medicaid Reserve
37 Account."

38 **SECTION 12H.24.(i) Board Start-Up.** – The following activities shall facilitate the
39 timely commencement of the Health Benefits Authority:

40 (1) The Board of the Health Benefits Authority may meet prior to October 1,
41 2015, in order to begin organizing and preparing to govern the Medicaid and
42 NC Health Choice programs. The Board may begin meeting as soon as a
43 majority of the appointments have been made and upon the call of the chair;
44 however, the initial meeting shall be no later than September 1, 2015. The
45 Division of Medical Assistance shall provide administrative support and
46 meeting space to the Board prior to November 1, 2015.

47 (2) If the Governor does not make initial appointments to the Board by
48 September 1, 2015, the Board members who have been appointed may select
49 a chair from among the appointed members and may conduct the business of
50 the Authority. Actions taken by the Board under this subdivision shall be

1 official actions of the Board, provided a majority of the appointed Board
2 members are present and approve the action.

- 3 (3) In order to set the initial compensation for the voting Board members, the
4 Office of State Human Resources shall survey the compensation paid to the
5 members of comparable large health insurance plans. The Office shall
6 complete the survey no later than September 1, 2015, and set the initial
7 compensation for voting Board members no later than October 1, 2015. A
8 voting Board member shall be eligible to receive compensation beginning on
9 the first business day following the effective date of the member's
10 appointment.

11 **SECTION 12H.24.(j)** Transfer of Rules. – Effective October 1, 2015, all rules and
12 policies exempted from rule making related to the Medicaid and NC Health Choice programs
13 shall transfer to the Health Benefits Authority. In its March 1, 2016, report to the Joint
14 Legislative Oversight Committee on the Health Benefits Authority, the Health Benefits
15 Authority shall include recommendations for additional exemptions from the rule-making
16 requirements and contested case provisions in Chapter 150B of the General Statutes.

17 **SECTION 12H.24.(k)** Legal Actions. – For any legal action involving the
18 Medicaid or NC Health Choice programs in which the Division of Medical Assistance or the
19 Department of Health and Human Services is named as a party, the Health Benefits Authority
20 may be joined as a party by reason of transfer of interest upon motion of any party pursuant to
21 Rule 25(d) of the North Carolina Rules of Civil Procedure. This subsection shall not be
22 construed to limit any other opportunities for joinder or intervention that are otherwise allowed
23 under the North Carolina Rules of Civil Procedure or elsewhere under law.

24 **SECTION 12H.24.(k1)** The Commissioner of Insurance shall establish solvency
25 requirements for MCOs and PLEs that contract with the Health Benefits Authority pursuant to
26 this section. The same requirements shall apply to and may be based on existing requirements
27 for similarly situated regulated entities. The Commissioner shall consult with the Authority in
28 developing the requirements. The Commissioner shall make recommendations, including any
29 statutory changes, to the Joint Legislative Oversight Committee on the Health Benefits
30 Authority by March 1, 2016.

31 **SECTION 12H.24.(l)** Legislative Oversight of Medicaid. – Chapter 120 of the
32 General Statutes is amended by adding the following new Article:

33 "Article 23B.

34 "Joint Legislative Oversight Committee on the Health Benefits Authority.

35 **"§ 120-209. Creation and membership of Joint Legislative Oversight Committee on the**
36 **Health Benefits Authority.**

37 (a) The Joint Legislative Oversight Committee on the Health Benefits Authority is
38 established. The Committee consists of 14 members as follows:

39 (1) Seven members of the Senate appointed by the President Pro Tempore of the
40 Senate, at least two of whom are members of the minority party.

41 (2) Seven members of the House of Representatives appointed by the Speaker of
42 the House of Representatives, at least two of whom are members of the
43 minority party.

44 (b) Terms on the Committee are for two years and begin on the convening of the
45 General Assembly in each odd-numbered year except initial appointments begin on the date of
46 appointment. Members may complete a term of service on the Committee even if they do not
47 seek reelection or are not reelected to the General Assembly, but resignation or removal from
48 service in the General Assembly constitutes resignation or removal from service on the
49 Committee.

50 (c) A member continues to serve until a successor is appointed. A vacancy shall be
51 filled within 30 days by the officer who made the original appointment.

1 **"§ 120-209.1. Purpose and powers of Committee.**

2 (a) The Joint Legislative Oversight Committee on the Health Benefits Authority shall
3 examine budgeting, financing, administrative, and operational issues related to the Medicaid
4 and NC Health Choice programs and to the Health Benefits Authority.

5 (b) The Committee may make periodic reports to the General Assembly on matters for
6 which it may report to a regular session of the General Assembly.

7 **"§ 120-209.2. Organization of Committee.**

8 (a) The President Pro Tempore of the Senate and the Speaker of the House of
9 Representatives shall each designate a cochair of the Joint Legislative Oversight Committee on
10 the Health Benefits Authority. The Committee shall meet upon the joint call of the cochairs.

11 (b) A quorum of the Committee is eight members. No action may be taken except by a
12 majority vote at a meeting at which a quorum is present.

13 (c) Members of the Committee receive subsistence and travel expenses, as provided in
14 G.S. 120-3.1. The Committee may contract for consultants or hire employees in accordance
15 with G.S. 120-32.02. The Legislative Services Commission, through the Legislative Services
16 Officer, shall assign professional staff to assist the Committee in its work. Upon the direction
17 of the Legislative Services Commission, the Directors of Legislative Assistants of the Senate
18 and of the House of Representatives shall assign clerical staff to the Committee. The expenses
19 for clerical employees shall be borne by the Committee.

20 (d) The Committee cochairs may establish subcommittees for the purpose of examining
21 issues relating to its Committee charge.

22 **"§ 120-209.3. Additional powers.**

23 The Joint Legislative Oversight Committee on the Health Benefits Authority, while in
24 discharge of official duties, shall have access to any paper or document, and may compel the
25 attendance of any State official or employee before the Committee or secure any evidence
26 under G.S. 120-19. In addition, G.S. 120-19.1 through G.S. 120-19.4 shall apply to the
27 proceedings of the Committee as if it were a joint committee of the General Assembly.

28 **"§ 120-209.4. Reports to Committee.**

29 Whenever the Health Benefits Authority is required by law to report to the General
30 Assembly or to any of its permanent, study, or oversight committees or subcommittees, the
31 Health Benefits Authority shall transmit a copy of the report to the cochairs of the Joint
32 Legislative Oversight Committee on the Health Benefits Authority."

33 **SECTION 12H.24.(m)** G.S. 120-208.1(a)(2)b. is repealed.

34 **SECTION 12H.24.(n)** Recodification; Technical and Conforming Changes. – The
35 Revisor of Statutes shall recodify existing law related to Medicaid and NC Health Choice,
36 including Parts 6, 6A, 7, and 8 of Article 2, Article 5, and Article 7 of Chapter 108A of the
37 General Statutes, as well as Chapters 108C and 108D of the General Statutes, into a new
38 Chapter 108E of the General Statutes to be entitled "Medicaid and NC Health Choice Health
39 Benefit Programs" and to have the following structure:

40 Article 1. Administration of the Medicaid and NC Health Choice Programs

41 Part 1. Establishment of the Medicaid Program

42 Part 2. Establishment of the NC Health Choice Program

43 Part 3. Administration by County Departments of Social Services

44 Article 2. Medicaid and NC Health Choice Eligibility

45 Part 1. In General

46 Part 2. Eligibility for Medicaid

47 Part 3. Eligibility for NC Health Choice

48 Article 3. Medicaid and NC Health Choice Benefits and Cost-Sharing

49 Part 1. In General

50 Part 2. Medicaid Benefits and Cost-Sharing

51 Part 3. NC Health Choice Benefits and Cost-Sharing

1 Article 4. Medicaid and NC Health Choice Provider Requirements

2 Part 1. Provider Enrollment

3 Part 2. Provider Reimbursement and Recovery

4 Part 3. Hospital Assessment Act

5 Part 4. Other

6 Article 5. Third-Party Liability

7 Part 1. In General

8 Part 2. Subrogation

9 Part 3. Insurance

10 Part 4. Estate Recovery

11 Article 6. Fraud and Criminal Activity

12 Article 7. Appeals

13 Part 1. Eligibility Appeals for Medicaid and NC Health Choice

14 Part 2. Benefit Appeals for Medicaid

15 Subpart 1. Generally

16 Subpart 2. Medicaid Managed Care for Behavioral Health Services

17 Appeals

18 Part 3. Benefit Reviews for NC Health Choice

19 Part 4. Provider Appeals

20 When recodifying, the Revisor is authorized to change all references to the North Carolina
 21 Department of Health and Human Services or to the Division of Medical Assistance to instead
 22 be references to the Health Benefits Authority. The Revisor may separate subsections of
 23 existing statutory sections into new sections and, when necessary to organize relevant law into
 24 its proper place in the above structure, may rearrange sentences that currently appear within
 25 subsections. The Revisor may modify statutory citations throughout the General Statutes, as
 26 appropriate, and may modify any references to statutory Divisions, such as "Chapter,"
 27 "Article," "Part," "section," or "subsection." Within Articles 4 and 5 of Chapter 108A of the
 28 General Statutes, the Revisor of Statutes shall append to each reference to the North Carolina
 29 Department of Health and Human Services or to the Secretary of the Department the language
 30 "and, with respect to Medicaid and NC Health Choice, the Health Benefits Authority." The
 31 Revisor of Statutes may conform names and titles changed by this subsection, and may correct
 32 statutory references as required by this subsection, throughout the General Statutes. In making
 33 the changes authorized by this subsection, the Revisor may also adjust subject and verb
 34 agreement and the placement of conjunctions. The Revisor shall consult with the Department of
 35 Health and Human Services and the new Health Benefits Authority on this recodification.

36 **SECTION 12H.24.(o)** G.S. 108A-1 reads as rewritten:

37 **"§ 108A-1. Creation.**

38 Every county shall have a board of social services or a consolidated human services board
 39 created pursuant to G.S. 153A-77(b) which shall establish county policies for the programs
 40 established by this Chapter in conformity with the rules and regulations of the Social Services
 41 Commission and under the supervision of the Department of Health and Human Services.
 42 Provided, however, county policies for the program of medical assistance shall be established
 43 in conformity with the rules and regulations of the ~~Department of Health and Human Services~~
 44 Health Benefits Authority."

45 **SECTION 12H.24.(p)** G.S. 108A-54.1A reads as rewritten:

46 **"§ 108A-54.1A. Amendments to Medicaid State Plan and Medicaid Waivers.**

47 (a) ~~No provision in the Medicaid State Plan or in a Medicaid Waiver may expand or~~
 48 ~~otherwise alter the scope or purpose of the Medicaid program from that authorized by law~~
 49 ~~enacted by the General Assembly. For purposes of this section, the term "amendments to the~~
 50 ~~State Plan" includes State Plan amendments, Waivers, and Waiver amendments.~~The Authority

1 is expressly authorized and required to take any and all necessary action to amend the State
2 Plan and waivers in order to keep the program within the certified budget.

3 ~~(b) The Department may submit amendments to the State Plan only as required under
4 any of the following circumstances:~~

5 ~~(1) A law enacted by the General Assembly directs the Department to submit an
6 amendment to the State Plan.~~

7 ~~(2) A law enacted by the General Assembly makes a change to the Medicaid
8 Program that requires approval by the federal government.~~

9 ~~(3) A change in federal law, including regulatory law, or a change in the
10 interpretation of federal law by the federal government requires an
11 amendment to the State Plan.~~

12 ~~(4) A change made by the Department to the Medicaid Program requires an
13 amendment to the State Plan, if the change was within the authority granted
14 to the Department by State law.~~

15 ~~(5) An amendment to the State Plan is required in response to an order of a court
16 of competent jurisdiction.~~

17 ~~(6) An amendment to the State Plan is required to ensure continued federal
18 financial participation.~~

19 ~~(e) Amendments to the State Plan submitted to the federal government for approval
20 shall contain only those changes that are allowed by the authority for submitting an amendment
21 to the State Plan in subsection (b) of this section.~~

22 ~~(d) No fewer than 10 days prior to submitting an amendment to the State Plan to the
23 federal government, the Department shall post the amendment on its Web site and notify the
24 members of the Joint Legislative Oversight Committee on the Health Benefits Authority and
25 the Fiscal Research Division that the amendment has been posted. This requirement shall not
26 apply to draft or proposed amendments submitted to the federal government for comments but
27 not submitted for approval. The amendment shall remain posted on the Department's Web site
28 at least until the plan has been approved, rejected, or withdrawn. If the authority for submitting
29 the amendment to the State Plan is pursuant to subdivision (3), (4), (5), or (6) of subsection (b)
30 of this section, then, prior to submitting an amendment to the federal government, the
31 Department shall submit to the General Assembly members receiving notice under this
32 subsection and to the Fiscal Research Division an explanation of the amendment, the need for
33 the amendment, and the federal time limits required for implementation of the amendment.~~

34 ~~(e) The Department shall submit an amendment to the State Plan to the federal
35 government by a date sufficient to provide the federal government adequate time to review and
36 approve the amendment so the amendment may be effective by the date required by the
37 directing authority in subsection (b) of this section. Additionally, if a change is made to the
38 Medicaid program by the General Assembly and that change requires an amendment to the
39 State Plan, then the amendment shall be submitted at least 90 days prior to the effective date of
40 the change as provided in the legislation.~~

41 ~~(f) Any public notice required under 42 C.F.R. 447.205 shall, in addition to any other
42 posting requirements under federal law, be posted on the Department's Web site. Upon posting
43 such a public notice, the Department shall notify the members of the Joint Legislative
44 Oversight Committee on the Health Benefits Authority and the Fiscal Research Division that
45 the public notice has been posted. Public notices shall remain posted on the Department's Web
46 site."~~

47 **SECTION 12H.24.(q)** G.S. 108A-54.2(d) is repealed.

48 **SECTION 12H.24.(r)** Part 1 of Article 2 of Chapter 108E of the General Statutes,
49 created by the recodification process described in subsection (n) of this section, shall include
50 the following two new sections:

51 **"§ 108E-2-1. General Assembly sets eligibility categories.**

1 Eligibility categories and income thresholds are set by the General Assembly, and the
2 Authority shall not alter the eligibility categories and income thresholds from those authorized
3 by the General Assembly. The Authority is expressly authorized to adopt temporary and
4 permanent rules regarding eligibility requirements and determinations, to the extent that they
5 do not conflict with parameters set by the General Assembly.

6 **"§ 108E-2-2. Counties determine eligibility.**

7 Counties determine eligibility in accordance with Chapter 108A of the General Statutes."

8 **SECTION 12H.24.(s)** G.S. 126-5 is amended by adding a new subdivision to read:

9 **"§ 126-5. Employees subject to Chapter; exemptions.**

10 ...

11 (c1) Except as to the provisions of Articles 6 and 7 of this Chapter, the provisions of this
12 Chapter shall not apply to:

13 ...

14 (31) Employees of the Health Benefits Authority."

15 **SECTION 12H.24.(t)** G.S. 143B-153 reads as rewritten:

16 **"§ 143B-153. Social Services Commission – creation, powers and duties.**

17 There is hereby created the Social Services Commission of the Department of Health and
18 Human Services with the power and duty to adopt rules and regulations to be followed in the
19 conduct of the State's social service programs with the power and duty to adopt, amend, and
20 rescind rules and regulations under and not inconsistent with the laws of the State necessary to
21 carry out the provisions and purposes of this Article. Provided, however, the ~~Department of~~
22 ~~Health and Human Services~~Health Benefits Authority shall have the power and duty to adopt
23 rules and regulations to be followed in the conduct of the State's medical assistance program.

24"

25 **SECTION 12H.24.(u)** G.S. 150B-1 reads as rewritten:

26 **"§ 150B-1. Policy and scope.**

27 ...

28 (d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the
29 following:

30 ...

31 (9) ~~The Department of Health and Human Services~~Health Benefits Authority in
32 adopting new or amending existing medical coverage policies for the State
33 Medicaid and NC Health Choice programs pursuant to G.S. 108A-54.2.

34 ...

35 (20) ~~The Department of Health and Human Services~~Health Benefits Authority in
36 implementing, operating, or overseeing new 1915(b)/(c) Medicaid Waiver
37 programs or amendments to existing 1915(b)/(c) Medicaid Waiver
38 programs.

39 ...

40 (22) ~~The Department of Health and Human Services~~Health Benefits Authority
41 with respect to the content of State Plans, State Plan Amendments, and
42 Waivers approved by the Centers for Medicare and Medicaid Services
43 (CMS) for the North Carolina Medicaid Program and the NC Health Choice
44 program.

45 ...

46 (e) Exemptions From Contested Case Provisions. – The contested case provisions of
47 this Chapter apply to all agencies and all proceedings not expressly exempted from the Chapter.
48 The contested case provisions of this Chapter do not apply to the following:

49 ...

50 (17) ~~The Department of Health and Human Services~~Health Benefits Authority
51 with respect to the review of North Carolina Health Choice Program

1 determinations regarding delay, denial, reduction, suspension, or termination
2 of health services, in whole or in part, including a determination about the
3 type or level of services.

4"

5 **SECTION 12H.24.(v)** Appropriation. – Of the funds appropriated from the
6 General Fund to the Department of Health and Human Services, Division of Medical
7 Assistance, the sum of five million dollars (\$5,000,000) in recurring funds for the 2015-2016
8 and the 2016-2017 fiscal years shall be used to accomplish the Medicaid transformation
9 required by this section. These funds shall provide a State match for an estimated five million
10 dollars (\$5,000,000) in federal funds beginning in the 2015-2016 fiscal year. Upon request of
11 the Board, but no later than October 1, 2015, the Department shall transfer these funds to the
12 Health Benefits Authority to be used for Medicaid transformation.

13 **SECTION 12H.24.(w)** Medicaid Transformation Reserve Fund. – The Medicaid
14 Transformation Reserve Fund is established in the Office of State Budget and Management as a
15 nonreverting reserve in the General Fund. The purpose of the Medicaid Transformation
16 Reserve Fund is to provide funds for converting from a fee-for-services payment system to a
17 capitated payment system. Funds reserved in the Medicaid Transformation Reserve Fund shall
18 be available only upon an appropriation by act of the General Assembly and do not constitute
19 an "appropriation made by law," as that phrase is used in Section 7(1) of Article V of the North
20 Carolina Constitution. The sum of one hundred eighty-five million six hundred four thousand
21 six hundred fifty-three dollars (\$185,604,653) in nonrecurring funds for fiscal year 2015-2016
22 and the sum of one hundred eighty-five million six hundred four thousand six hundred
23 fifty-three dollars (\$185,604,653) in nonrecurring funds for fiscal year 2016-2017 are hereby
24 reserved in the Medicaid Transformation Reserve Fund.

25 **SECTION 12H.24.(x)** Effective Date. – Subsections (n) through (u) of this section
26 become effective October 1, 2015. The remainder of this section is effective when this act
27 becomes law.

28
29 **INCREASE RATES TO PRIMARY CARE PHYSICIANS AND DISCONTINUE**
30 **PRIMARY CARE CASE MANAGEMENT**

31 **SECTION 12H.25.(a)** Effective January 1, 2016, the current Medicaid and Health
32 Choice primary care case management (PCCM) program is discontinued. The Department of
33 Health and Human Services shall not renew or extend the contract for PCCM services with
34 North Carolina Community Care Networks, Inc. (NCCCN), beyond December 31, 2015.

35 **SECTION 12H.25.(b)** The Department of Health and Human Services shall take
36 all actions necessary to discontinue the current Medicaid and Health Choice PCCM program as
37 implemented by NCCCN. As soon as reasonably possible, but no later than October 1, 2015,
38 the Department shall submit to the Centers for Medicare and Medicaid Services (CMS) a
39 Medicaid State plan amendment eliminating the PCCM program. If CMS has not approved the
40 State plan amendment by January 1, 2016, the Department of Health and Human Services
41 nevertheless shall discontinue all payments related to the PCCM program beginning January 1,
42 2016, unless and until CMS denies the State plan amendment.

43 **SECTION 12H.25.(c)** This section shall not be construed to prohibit the
44 Department of Health and Human Services from developing or utilizing contracts for managed
45 care other than PCCM after January 1, 2016.

46 **SECTION 12H.25.(d)** Effective January 1, 2016, G.S. 108A-70.21(b) reads as
47 rewritten:

48 "(b) Benefits. – All health benefits changes of the Program shall meet the coverage
49 requirements set forth in this subsection. Except as otherwise provided for eligibility, fees,
50 deductibles, copayments, and other cost sharing charges, health benefits coverage provided to

1 children eligible under the Program shall be equivalent to coverage provided for dependents
2 under North Carolina Medicaid Program except for the following:

3 ...
4 No benefits are to be provided for services and materials under this subsection that do not
5 meet the standards accepted by the American Dental Association.

6 ~~The Department shall provide services to children enrolled in the NC Health Choice~~
7 ~~Program through Community Care of North Carolina (CCNC) and shall pay Community Care~~
8 ~~of North Carolina providers the per member, per month fees as allowed under Medicaid."~~

9 **SECTION 12H.25.(e)** Effective January 1, 2016, the rates paid to primary care
10 physicians shall be one hundred percent (100%) of Medicare rates. For purposes of this section,
11 the term primary care physicians refers to those physicians for whom the Affordable Care Act
12 required payment at one hundred percent (100%) of the Medicare rate until January 1, 2015,
13 and all OB/GYN physicians.

14 **SECTION 12H.25.(f)** Upon the discontinuation of the PCCM program, of the
15 funds previously used for the NCCCN contract, the Department shall use six million four
16 hundred seventy-five thousand dollars (\$6,475,000) in fiscal year 2015-2016 and twelve
17 million nine hundred fifty thousand dollars (\$12,950,000) in fiscal year 2016-2017 to directly
18 fund local health departments' continued services related to the Care Coordination for Children
19 (CC4C) program, which was previously funded through the contract with NCCCN.

20 21 **NC HEALTH CHOICE COST SETTLEMENT**

22 **SECTION 12H.26.** Effective July 1, 2015, hospital outpatient services covered by
23 NC Health Choice shall be cost settled at seventy percent (70%) of allowable costs, using the
24 same methodology that is used for Medicaid.

25 26 **BLOOD GLUCOSE TESTING EQUIPMENT AND SUPPLIES**

27 **SECTION 12H.27.(a)** Notwithstanding any other provision of law, the Department
28 of Health and Human Services, Division of Medical Assistance, (Department) is authorized to
29 use any reimbursement methodology or arrangement to provide Medicaid coverage for blood
30 glucose testing equipment and supplies, provided that the Department's total requirements, net
31 of rebates, for providing blood glucose testing equipment and supplies does not exceed one
32 million nine hundred thirty-three thousand three hundred fifty-seven dollars (\$1,933,357) in
33 fiscal year 2015-2016 and two million twenty thousand nine hundred seventy-four dollars
34 (\$2,020,974) in fiscal year 2016-2017.

35 **SECTION 12H.27.(b)** Any state plan amendment submitted to implement this
36 section shall not be subject to the 90-day prior submission requirement of G.S. 108A-54.1A(e).

37 38 **MEDICAID CONTINGENCY RESERVE**

39 **SECTION 12H.28.(a)** Funds in the Medicaid Contingency Reserve established by
40 Section 12H.38 of S.L. 2014-100 shall be used only for budget shortfalls in the Medicaid
41 Program that occur during the 2015-2016 fiscal year. These funds shall be available for
42 expenditure only upon an appropriation by act of the General Assembly.

43 **SECTION 12H.28.(b)** It is the intent of the General Assembly to appropriate funds
44 from the Medicaid Contingency Reserve only if:

- 45 (1) The Director of the Budget, after the State Controller has verified that
46 receipts are being used appropriately, has found that additional funds are
47 needed to cover a shortfall in the Medicaid budget for the State fiscal year.
- 48 (2) The Department of Health and Human Services or the Health Benefits
49 Authority created in Section 12H.24 of this act has submitted a State plan
50 amendment to the Centers for Medicare and Medicaid Services to delink
51 eligibility for Medicaid from eligibility for State-County Special Assistance,

1 to be effective 90 days after the date of submission of the State plan
 2 amendment. At least 45 days prior to submitting that State plan amendment,
 3 the Department of Health and Human Services or the Health Benefits
 4 Authority must have submitted a draft of that plan to the Joint Legislative
 5 Oversight Committee on the Health Benefits Authority and, if the General
 6 Assembly was not in session, must have consulted with the Committee on
 7 that draft.

8 (3) The Director of the Budget has reported immediately to the Fiscal Research
 9 Division on the amount of the shortfall found in accordance with subdivision
 10 (1) of this subsection. This report shall include an analysis of the causes of
 11 the shortfall, such as (i) unanticipated enrollment and mix of enrollment, (ii)
 12 unanticipated growth or utilization within particular service areas, (iii) errors
 13 in the data or analysis used to project the Medicaid budget, (iv) the failure of
 14 the program to achieve budgeted savings, (v) other factors and market trends
 15 that have impacted the price of or spending for services, (vi) variations in
 16 receipts from prior years or from assumptions used to prepare the Medicaid
 17 budget for the current fiscal year, or (vii) other factors. The report shall also
 18 include data in an electronic format that is adequate for the Fiscal Research
 19 Division to confirm the amount of the shortfall and its causes.

20 **SECTION 12H.28.(c)** Effective 90 days after the State plan amendment is
 21 submitted to the Centers for Medicare and Medicaid Services (CMS) or when CMS approves
 22 the State plan amendment, whichever occurs later, eligibility for Medicaid coverage is delinked
 23 from eligibility for State-County Special Assistance and recipients of State-County Special
 24 Assistance no longer automatically qualify for Medicaid coverage solely because of their
 25 receipt of State-County Special Assistance.

26 **SECTION 12H.28.(d)** Nothing in this section shall be construed to limit the
 27 authority of the Governor to carry out his duties under the Constitution.

28
 29 **SUBPART XII-I. DHHS BLOCK GRANTS**

30
 31 **DHHS BLOCK GRANTS**

32 **SECTION 12I.1.(a)** Except as otherwise provided, appropriations from federal
 33 block grant funds are made for each year of the fiscal biennium ending June 30, 2017,
 34 according to the following schedule:

35
 36 **TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) FUNDS** **FY 2015-2016** **FY 2016-2017**

37
 38
 39 Local Program Expenditures

40
 41 Division of Social Services

| | | | |
|----|-----|--------------------------------------|--------------------------------|
| 42 | | | |
| 43 | 01. | Work First Family Assistance | \$57,167,454 \$57,167,454 |
| 44 | | | |
| 45 | 02. | Work First County Block Grants | 80,093,566 78,073,437 |
| 46 | | | |
| 47 | 03. | Work First Electing Counties | 2,378,213 2,378,213 |
| 48 | | | |
| 49 | 04. | Adoption Services – Special Children | |
| 50 | | Adoption Fund | 2,026,877 2,026,877 |
| 51 | | | |

| | | | | |
|----|-----|---|------------|------------|
| 1 | 05. | Child Protective Services – Child Welfare | | |
| 2 | | Workers for Local DSS | 9,412,391 | 9,412,391 |
| 3 | | | | |
| 4 | 06. | Child Welfare Collaborative | 632,416 | 632,416 |
| 5 | | | | |
| 6 | | Division of Child Development and Early Education | | |
| 7 | | | | |
| 8 | 07. | Subsidized Child Care Program | 35,248,910 | 37,419,801 |
| 9 | | | | |
| 10 | 08. | Swap Child Care Subsidy | 6,352,644 | 6,352,644 |
| 11 | | | | |
| 12 | 09. | Pre-K Swap Out | 16,829,306 | 12,333,981 |
| 13 | | | | |
| 14 | | Division of Public Health | | |
| 15 | | | | |
| 16 | 10. | Teen Pregnancy Prevention Initiatives | 2,950,000 | 2,950,000 |
| 17 | | | | |
| 18 | | DHHS Administration | | |
| 19 | | | | |
| 20 | 11. | Division of Social Services | 2,482,260 | 2,482,260 |
| 21 | | | | |
| 22 | 12. | Office of the Secretary | 34,042 | 34,042 |
| 23 | | | | |
| 24 | 13. | Eligibility Systems – Operations and | | |
| 25 | | Maintenance | 2,738,926 | 4,206,640 |
| 26 | | | | |
| 27 | 14. | NC FAST Implementation | 1,313,384 | 1,865,799 |
| 28 | | | | |
| 29 | | Transfers to Other Block Grants | | |
| 30 | | | | |
| 31 | | Division of Child Development and Early Education | | |
| 32 | | | | |
| 33 | 15. | Transfer to the Child Care and | | |
| 34 | | Development Fund | 71,773,001 | 71,773,001 |
| 35 | | | | |
| 36 | | Division of Social Services | | |
| 37 | | | | |
| 38 | 16. | Transfer to Social Services Block | | |
| 39 | | Grant for Child Protective Services – | | |
| 40 | | Training | 1,300,000 | 1,300,000 |
| 41 | | | | |
| 42 | 17. | Transfer to Social Services Block | | |
| 43 | | Grant for Child Protective Services | 5,040,000 | 5,040,000 |
| 44 | | | | |
| 45 | 18. | Transfer to Social Services Block | | |
| 46 | | Grant for County Departments of | | |
| 47 | | Social Services for Children's Services | 4,148,001 | 4,148,001 |
| 48 | | | | |
| 49 | 19. | Transfer to Social Services Block | | |
| 50 | | Grant – Foster Care Services | 1,385,152 | 1,385,152 |
| 51 | | | | |

| | | | |
|----|---|----------------------|----------------------|
| 1 | TOTAL TEMPORARY ASSISTANCE FOR | | |
| 2 | NEEDY FAMILIES (TANF) FUNDS | \$303,306,543 | \$300,982,109 |
| 3 | | | |
| 4 | TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) | | |
| 5 | EMERGENCY CONTINGENCY FUNDS | | |
| 6 | | | |
| 7 | Local Program Expenditures | | |
| 8 | | | |
| 9 | Division of Child Development and Early Education | | |
| 10 | | | |
| 11 | 01. Subsidized Child Care | 29,033,340 | 28,600,000 |
| 12 | | | |
| 13 | 02. Subsidized Child Care Swap Out | 4,547,023 | 0 |
| 14 | | | |
| 15 | TOTAL TEMPORARY ASSISTANCE FOR | | |
| 16 | NEEDY FAMILIES (TANF) EMERGENCY | | |
| 17 | CONTINGENCY FUNDS | \$33,580,363 | \$28,600,000 |
| 18 | | | |
| 19 | SOCIAL SERVICES BLOCK GRANT | | |
| 20 | | | |
| 21 | Local Program Expenditures | | |
| 22 | | | |
| 23 | Divisions of Social Services and Aging and Adult Services | | |
| 24 | | | |
| 25 | 01. County Departments of Social Services | | |
| 26 | (Transfer From TANF \$4,148,001) | \$27,427,015 | \$27,165,668 |
| 27 | | | |
| 28 | 02. Child Protective Services | | |
| 29 | (Transfer From TANF) | 5,040,000 | 5,040,000 |
| 30 | | | |
| 31 | 03. State In-Home Services Fund | 2,382,970 | 1,943,950 |
| 32 | | | |
| 33 | 04. Adult Protective Services | 1,245,363 | 1,245,363 |
| 34 | | | |
| 35 | 05. State Adult Day Care Fund | 1,994,084 | 1,994,084 |
| 36 | | | |
| 37 | 06. Child Protective Services/CPS | | |
| 38 | Investigative Services – Child Medical | | |
| 39 | Evaluation Program | 563,868 | 563,868 |
| 40 | | | |
| 41 | 07. Special Children Adoption Incentive Fund | 462,600 | 462,600 |
| 42 | | | |
| 43 | 08. Child Protective Services – Child | | |
| 44 | Welfare Training for Counties | | |
| 45 | (Transfer From TANF) | 1,300,000 | 1,300,000 |
| 46 | | | |
| 47 | 09. Home and Community Care Block | | |
| 48 | Grant (HCCBG) | 1,696,888 | 1,696,888 |
| 49 | | | |
| 50 | 10. Child Advocacy Centers | 375,000 | 375,000 |
| 51 | | | |

| | | | | |
|----|-----|---|---------------------|---------------------|
| 1 | 11. | Guardianship | 3,978,360 | 3,978,360 |
| 2 | | | | |
| 3 | 12. | Foster Care Services | | |
| 4 | | (Transfer From TANF) | 1,385,152 | 1,385,152 |
| 5 | | | | |
| 6 | | Division of Central Management and Support | | |
| 7 | | | | |
| 8 | 13. | DHHS Competitive Block Grants | | |
| 9 | | for Nonprofits | 3,852,500 | 3,852,500 |
| 10 | | | | |
| 11 | 14. | NC FAST – Operations and | | |
| 12 | | Maintenance | 712,324 | 939,315 |
| 13 | | | | |
| 14 | | Division of Mental Health, Developmental Disabilities, and Substance Abuse Services | | |
| 15 | | | | |
| 16 | 15. | Mental Health Services – Adult and | | |
| 17 | | Child/Developmental Disabilities Program/ | | |
| 18 | | Substance Abuse Services – Adult | 4,030,730 | 4,030,730 |
| 19 | | | | |
| 20 | | DHHS Program Expenditures | | |
| 21 | | | | |
| 22 | | Division of Services for the Blind | | |
| 23 | | | | |
| 24 | 16. | Independent Living Program | 3,361,323 | 3,361,323 |
| 25 | | | | |
| 26 | | Division of Health Service Regulation | | |
| 27 | | | | |
| 28 | 17. | Adult Care Licensure Program | 381,087 | 381,087 |
| 29 | | | | |
| 30 | 18. | Mental Health Licensure and | | |
| 31 | | Certification Program | 190,284 | 190,284 |
| 32 | | | | |
| 33 | | DHHS Administration | | |
| 34 | | | | |
| 35 | 19. | Division of Aging and Adult Services | 577,745 | 577,745 |
| 36 | | | | |
| 37 | 20. | Division of Social Services | 559,109 | 559,109 |
| 38 | | | | |
| 39 | 21. | Office of the Secretary/Controller's Office | 127,731 | 127,731 |
| 40 | | | | |
| 41 | 22. | Division of Child Development and | | |
| 42 | | Early Education | 13,878 | 13,878 |
| 43 | | | | |
| 44 | 23. | Division of Mental Health, Developmental | | |
| 45 | | Disabilities, and Substance Abuse Services | 27,446 | 27,446 |
| 46 | | | | |
| 47 | 24. | Division of Health Service Regulation | 118,946 | 118,946 |
| 48 | | | | |
| 49 | | TOTAL SOCIAL SERVICES BLOCK GRANT | \$61,804,403 | \$61,331,027 |
| 50 | | | | |
| 51 | | LOW-INCOME ENERGY ASSISTANCE BLOCK GRANT | | |

| | | | |
|----|--|----------------------|----------------------|
| 1 | | | |
| 2 | Local Program Expenditures | | |
| 3 | | | |
| 4 | Division of Social Services | | |
| 5 | | | |
| 6 | 01. Low-Income Energy Assistance | | |
| 7 | Program (LIEAP) | \$40,244,534 | \$39,303,674 |
| 8 | | | |
| 9 | 02. Crisis Intervention Program (CIP) | 40,244,534 | 39,303,674 |
| 10 | | | |
| 11 | Local Administration | | |
| 12 | | | |
| 13 | Division of Social Services | | |
| 14 | | | |
| 15 | 03. County DSS Administration | 6,454,961 | 6,454,961 |
| 16 | | | |
| 17 | DHHS Administration | | |
| 18 | | | |
| 19 | 04. Office of the Secretary/DIRM | 412,488 | 412,488 |
| 20 | | | |
| 21 | 05. Office of the Secretary/Controller's Office | 18,378 | 18,378 |
| 22 | | | |
| 23 | 06. NC FAST Development | 1,075,319 | 3,381,373 |
| 24 | | | |
| 25 | Transfers to Other State Agencies | | |
| 26 | | | |
| 27 | Department of Environment and Natural | | |
| 28 | Resources (DENR) | | |
| 29 | | | |
| 30 | 07. Weatherization Program | 11,847,017 | 11,570,050 |
| 31 | | | |
| 32 | 08. Heating Air Repair and Replacement | | |
| 33 | Program (HARRP) | 6,303,514 | 6,156,147 |
| 34 | | | |
| 35 | 09. Local Residential Energy Efficiency Service | | |
| 36 | Providers – Weatherization | 475,046 | 475,046 |
| 37 | | | |
| 38 | 10. Local Residential Energy Efficiency Service | | |
| 39 | Providers – HARRP | 252,761 | 252,761 |
| 40 | | | |
| 41 | 11. DENR – Weatherization Administration | 475,046 | 475,046 |
| 42 | | | |
| 43 | 12. DENR – HARRP Administration | 252,760 | 252,760 |
| 44 | | | |
| 45 | Department of Administration | | |
| 46 | | | |
| 47 | 13. N.C. Commission on Indian Affairs | 87,736 | 87,736 |
| 48 | | | |
| 49 | TOTAL LOW-INCOME ENERGY | | |
| 50 | ASSISTANCE BLOCK GRANT | \$108,144,094 | \$108,144,094 |
| 51 | | | |

CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT

Local Program Expenditures

Division of Child Development and Early Education

| | | | |
|-----|---|---------------|---------------|
| 01. | Child Care Services (Smart Start \$7,000,000) | \$154,678,008 | \$152,370,856 |
| 02. | Electronic Tracking System | 801,240 | 401,492 |
| 03. | Transfer from TANF Block Grant for Child Care Subsidies | 71,773,001 | 71,773,001 |
| 04. | Quality and Availability Initiatives (TEACH Program \$3,800,000) | 26,514,964 | 26,019,987 |

DHHS Administration

Division of Child Development and Early Education

| | | | |
|-----|-------------------------------|-----------|-----------|
| 05. | DCDEE Administrative Expenses | 9,049,505 | 9,049,505 |
|-----|-------------------------------|-----------|-----------|

Division of Social Services

| | | | |
|-----|---|------------|------------|
| 06. | Local Subsidized Child Care Services Support | 15,930,279 | 15,930,279 |
| 07. | NC FAST Development | 186,404 | 586,152 |

Division of Central Administration

| | | | |
|-----|--|---------|---------|
| 08. | DHHS Central Administration – DIRM Technical Services | 775,000 | 775,000 |
| 09. | Central Regional Maintenance | 202,000 | 202,000 |
| 10. | Child Care Health Consultation Contracts | 62,205 | 62,205 |

**TOTAL CHILD CARE AND DEVELOPMENT
FUND BLOCK GRANT****\$279,972,606** **\$277,170,477****MENTAL HEALTH SERVICES BLOCK GRANT**

Local Program Expenditures

| | | | |
|-----|--------------------------------------|-------------|-------------|
| 01. | Mental Health Services – Child | \$3,619,833 | \$3,619,833 |
| 02. | Administration | 200,000 | 200,000 |
| 03. | Mental Health Services – Adult/Child | 11,755,152 | 11,755,152 |

| | | | |
|----|-------------------------------------|--|---------------------|
| 1 | | | |
| 2 | 04. | Crisis Solutions Initiative – Critical | |
| 3 | | Time Intervention | 750,000 |
| 4 | | | 750,000 |
| 5 | 05. | Mental Health Services – First | |
| 6 | | Psychotic Symptom Treatment | 643,491 |
| 7 | | | 643,491 |
| 8 | TOTAL MENTAL HEALTH SERVICES | | |
| 9 | BLOCK GRANT | | \$16,968,476 |
| 10 | | | \$16,968,476 |

SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT

Local Program Expenditures

Division of Mental Health, Developmental Disabilities, and Substance Abuse Services

| | | | |
|----|-----|---|-------------|
| 15 | | | |
| 16 | | | |
| 17 | 01. | Substance Abuse – HIV and IV Drug | \$3,919,723 |
| 18 | | | \$3,919,723 |
| 19 | 02. | Substance Abuse Prevention | 8,669,284 |
| 20 | | | 8,669,284 |
| 21 | 03. | Substance Abuse Services – Treatment for | |
| 22 | | Children/Adults | 29,519,883 |
| 23 | | | 29,519,883 |
| 24 | 04. | Crisis Solutions Initiatives – Walk-In | |
| 25 | | Crisis Centers | 420,000 |
| 26 | | | 420,000 |
| 27 | 05. | Crisis Solutions Initiatives – Collegiate | |
| 28 | | Wellness/Addiction Recovery | 1,085,000 |
| 29 | | | 1,085,000 |
| 30 | 06. | Crisis Solutions Initiatives – Community | |
| 31 | | Paramedic Mobile Crisis Management | 60,000 |
| 32 | | | 60,000 |
| 33 | 07. | Crisis Solutions Initiatives – Innovative | |
| 34 | | Technologies | 41,000 |
| 35 | | | 41,000 |
| 36 | 08. | Crisis Solutions Initiatives – Veteran's Crisis | 250,000 |
| 37 | | | 250,000 |
| 38 | 09. | Administration | 454,000 |
| 39 | | | 454,000 |

Division of Public Health

| | | | |
|----|-----|--|---------|
| 40 | | | |
| 41 | | | |
| 42 | 10. | HIV Testing for Individuals in Substance | |
| 43 | | Abuse Treatment | 765,949 |
| 44 | | | 765,949 |

| | | | |
|----|---|--|---------------------|
| 45 | TOTAL SUBSTANCE ABUSE PREVENTION | | |
| 46 | AND TREATMENT BLOCK GRANT | | \$45,184,839 |
| 47 | | | \$45,184,839 |

MATERNAL AND CHILD HEALTH BLOCK GRANT

Local Program Expenditures

| | | | |
|----|---|---------------------|---------------------|
| 1 | Division of Public Health | | |
| 2 | | | |
| 3 | 01. Children's Health Services | | |
| 4 | (Safe Sleep Campaign | | |
| 5 | \$45,000; Prevent Blindness \$560,837; | | |
| 6 | Community-Based | | |
| 7 | Sickle Cell Centers \$100,000) | \$7,574,703 | \$7,574,703 |
| 8 | | | |
| 9 | 02. Women's Health | | |
| 10 | (March of Dimes \$350,000; Teen Pregnancy | | |
| 11 | Prevention Initiatives \$650,000; | | |
| 12 | 17P Project \$52,000; Nurse-Family | | |
| 13 | Partnership \$509,018) | 6,520,148 | 6,520,148 |
| 14 | | | |
| 15 | 03. Oral Health | 44,901 | 44,901 |
| 16 | | | |
| 17 | 04. Evidence-Based Programs in Counties | | |
| 18 | With Highest Infant Mortality Rates | 1,575,000 | 1,575,000 |
| 19 | | | |
| 20 | DHHS Program Expenditures | | |
| 21 | | | |
| 22 | Division of Public Health | | |
| 23 | | | |
| 24 | 05. Children's Health Services | 1,342,928 | 1,342,928 |
| 25 | | | |
| 26 | 06. Women's Health – Maternal Health | 107,714 | 107,714 |
| 27 | | | |
| 28 | 07. State Center for Health Statistics | 158,583 | 158,583 |
| 29 | | | |
| 30 | 08. Health Promotion – Injury and | | |
| 31 | Violence Prevention | 87,271 | 87,271 |
| 32 | | | |
| 33 | DHHS Administration | | |
| 34 | | | |
| 35 | Division of Public Health | | |
| 36 | | | |
| 37 | 09. Division of Public Health Administration | 552,571 | 552,571 |
| 38 | | | |
| 39 | TOTAL MATERNAL AND CHILD | | |
| 40 | HEALTH BLOCK GRANT | \$17,963,819 | \$17,963,819 |
| 41 | | | |
| 42 | PREVENTIVE HEALTH SERVICES BLOCK GRANT | | |
| 43 | | | |
| 44 | Local Program Expenditures | | |
| 45 | | | |
| 46 | 01. Physical Activity and Prevention | \$2,034,060 | \$2,034,060 |
| 47 | | | |
| 48 | 02. Injury and Violence Prevention | | |
| 49 | (Services to Rape Victims – Set-Aside) | 173,476 | 173,476 |
| 50 | | | |
| 51 | 03. Community-Focused Eliminating Health | | |

| | | | |
|----|--|--------------------|--------------------|
| 1 | Disparities Initiative Grants | 2,756,855 | 0 |
| 2 | | | |
| 3 | DHHS Program Expenditures | | |
| 4 | | | |
| 5 | Division of Public Health | | |
| 6 | | | |
| 7 | 04. HIV/STD Prevention and | | |
| 8 | Community Planning | 145,819 | 145,819 |
| 9 | | | |
| 10 | 05. Oral Health Preventive Services | 320,074 | 451,809 |
| 11 | | | |
| 12 | 06. Laboratory Services – Testing, | | |
| 13 | Training, and Consultation | 21,012 | 21,012 |
| 14 | | | |
| 15 | 07. Injury and Violence Prevention | | |
| 16 | (Services to Rape Victims – Set-Aside) | 192,315 | 192,315 |
| 17 | | | |
| 18 | 08. State Laboratory Services – Testing, | | |
| 19 | Training, and Consultation | 199,634 | 199,634 |
| 20 | | | |
| 21 | 09. Heart Disease and Stroke Prevention | 273,772 | 405,507 |
| 22 | | | |
| 23 | 10. Performance Improvement and | | |
| 24 | Accountability | 839,736 | 971,471 |
| 25 | | | |
| 26 | 11. Physical Activity and Nutrition | 68,073 | 68,073 |
| 27 | | | |
| 28 | 12. State Center for Health Statistics | 107,291 | 107,291 |
| 29 | | | |
| 30 | DHHS Administration | | |
| 31 | | | |
| 32 | Division of Public Health | | |
| 33 | | | |
| 34 | 13. Division of Public Health | 172,820 | 172,820 |
| 35 | | | |
| 36 | 14. Division of Public Health – | | |
| 37 | Physical Activity and Nutrition Branch | 1,243,899 | 0 |
| 38 | | | |
| 39 | TOTAL PREVENTIVE HEALTH | | |
| 40 | SERVICES BLOCK GRANT | \$8,548,836 | \$4,943,288 |
| 41 | | | |
| 42 | COMMUNITY SERVICES BLOCK GRANT | | |
| 43 | | | |
| 44 | Local Program Expenditures | | |
| 45 | | | |
| 46 | Office of Economic Opportunity | | |
| 47 | | | |
| 48 | 01. Community Action Agencies | \$24,047,065 | \$24,047,065 |
| 49 | | | |
| 50 | 02. Limited Purpose Agencies | 1,335,948 | 1,335,948 |
| 51 | | | |

1 DHHS Administration

2
3 03. Office of Economic Opportunity 1,335,948 1,335,948

4
5 **TOTAL COMMUNITY SERVICES**

6 **BLOCK GRANT \$26,718,961 \$26,718,961**

7
8 **GENERAL PROVISIONS**

9 **SECTION 12I.1.(b)** Information to Be Included in Block Grant Plans. – The
10 Department of Health and Human Services shall submit a separate plan for each Block Grant
11 received and administered by the Department, and each plan shall include the following:

- 12 (1) A delineation of the proposed allocations by program or activity, including
13 State and federal match requirements.
- 14 (2) A delineation of the proposed State and local administrative expenditures.
- 15 (3) An identification of all new positions to be established through the Block
16 Grant, including permanent, temporary, and time-limited positions.
- 17 (4) A comparison of the proposed allocations by program or activity with two
18 prior years' program and activity budgets and two prior years' actual program
19 or activity expenditures.
- 20 (5) A projection of current year expenditures by program or activity.
- 21 (6) A projection of federal Block Grant funds available, including unspent
22 federal funds from the current and prior fiscal years.

23 **SECTION 12I.1.(c)** Changes in Federal Fund Availability. – If the Congress of the
24 United States increases the federal fund availability for any of the Block Grants or contingency
25 funds and other grants related to existing Block Grants administered by the Department of
26 Health and Human Services from the amounts appropriated in this section, the Department
27 shall allocate the increase proportionally across the program and activity appropriations
28 identified for that Block Grant in this section. In allocating an increase in federal fund
29 availability, the Office of State Budget and Management shall not approve funding for new
30 programs or activities not appropriated in this section.

31 If the Congress of the United States decreases the federal fund availability for any of
32 the Block Grants or contingency funds and other grants related to existing Block Grants
33 administered by the Department of Health and Human Services from the amounts appropriated
34 in this section, the Department shall develop a plan to adjust the Block Grants based on reduced
35 federal funding.

36 Notwithstanding the provisions of this subsection, for fiscal years 2015-2016 and
37 2016-2017, increases in the federal fund availability for the Temporary Assistance to Needy
38 Families (TANF) Block Grant shall be used only for the North Carolina Child Care Subsidy
39 program to pay for child care in four- or five-star-rated facilities for four-year-old children and
40 shall not be used to supplant State funds.

41 Prior to allocating the change in federal fund availability, the proposed allocation
42 must be approved by the Office of State Budget and Management. If the Department adjusts the
43 allocation of any Block Grant due to changes in federal fund availability, then a report shall be
44 made to the Joint Legislative Oversight Committee on Health and Human Services and the
45 Fiscal Research Division.

46 **SECTION 12I.1.(d)** Except as otherwise provided, appropriations from federal
47 Block Grant funds are made for each year of the fiscal biennium ending June 30, 2017,
48 according to the schedule enacted for State fiscal years 2015-2016 and 2016-2017 or until a
49 new schedule is enacted by the General Assembly.

50 **SECTION 12I.1.(e)** All changes to the budgeted allocations to the Block Grants or
51 contingency funds and other grants related to existing Block Grants administered by the

1 Department of Health and Human Services that are not specifically addressed in this section
2 shall be approved by the Office of State Budget and Management, and the Office of State
3 Budget and Management shall consult with the Joint Legislative Oversight Committee on
4 Health and Human Services for review prior to implementing the changes. The report shall
5 include an itemized listing of affected programs, including associated changes in budgeted
6 allocations. All changes to the budgeted allocations to the Block Grants shall be reported
7 immediately to the Joint Legislative Oversight Committee on Health and Human Services and
8 the Fiscal Research Division. This subsection does not apply to Block Grant changes caused by
9 legislative salary increases and benefit adjustments.

10 **SECTION 12L.1.(f)** Except as otherwise provided, the Department of Health and
11 Human Services shall have flexibility to transfer funding between the Temporary Assistance
12 for Needy Families (TANF) Block Grant and the TANF Emergency Contingency Funds Block
13 Grant so long as the total allocation for the line items within those block grants remains the
14 same.

15 16 **TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) FUNDS**

17 **SECTION 12L.1.(g)** The sum of eighty million ninety-three thousand five hundred
18 sixty-six dollars (\$80,093,566) for the 2015-2016 fiscal year and the sum of seventy-eight
19 million seventy-three thousand four hundred thirty-seven dollars (\$78,073,437) for the
20 2016-2017 fiscal year appropriated in this section in TANF funds to the Department of Health
21 and Human Services, Division of Social Services, shall be used for Work First County Block
22 Grants. The Division shall certify these funds in the appropriate State-level services based on
23 prior year actual expenditures. The Division has the authority to realign the authorized budget
24 for these funds among the State-level services based on current year actual expenditures.

25 **SECTION 12L.1.(h)** The sum of nine million four hundred twelve thousand three
26 hundred ninety-one dollars (\$9,412,391) appropriated in this section to the Department of
27 Health and Human Services, Division of Social Services, in TANF funds for each year of the
28 2015-2017 fiscal biennium for child welfare improvements shall be allocated to the county
29 departments of social services for hiring or contracting staff to investigate and provide services
30 in Child Protective Services cases; to provide foster care and support services; to recruit, train,
31 license, and support prospective foster and adoptive families; and to provide interstate and
32 post-adoption services for eligible families.

33 Counties shall maintain their level of expenditures in local funds for Child
34 Protective Services workers. Of the Block Grant funds appropriated for Child Protective
35 Services workers, the total expenditures from State and local funds for fiscal years 2015-2016
36 and 2016-2017 shall not be less than the total expended from State and local funds for the
37 2012-2013 fiscal year.

38 **SECTION 12L.1.(i)** The sum of two million twenty-six thousand eight hundred
39 seventy-seven dollars (\$2,026,877) appropriated in this section in TANF funds to the
40 Department of Health and Human Services, Special Children Adoption Fund, for each year of
41 the 2015-2017 fiscal biennium shall be used in accordance with G.S. 108A-50.2. The Division
42 of Social Services, in consultation with the North Carolina Association of County Directors of
43 Social Services and representatives of licensed private adoption agencies, shall develop
44 guidelines for the awarding of funds to licensed public and private adoption agencies upon the
45 adoption of children described in G.S. 108A-50 and in foster care. Payments received from the
46 Special Children Adoption Fund by participating agencies shall be used exclusively to enhance
47 the adoption services program. No local match shall be required as a condition for receipt of
48 these funds.

49 50 **SOCIAL SERVICES BLOCK GRANT**

1 **SECTION 12L.1.(j)** The sum of twenty-seven million four hundred twenty-seven
2 thousand fifteen dollars (\$27,427,015) for the 2015-2016 fiscal year and the sum of
3 twenty-seven million one hundred sixty-five thousand six hundred sixty-eight dollars
4 (\$27,165,668) for the 2016-2017 fiscal year appropriated in this section in the Social Services
5 Block Grant to the Department of Health and Human Services, Division of Social Services,
6 shall be used for county block grants. The Division shall certify these funds in the appropriate
7 State-level services based on prior year actual expenditures. The Division has the authority to
8 realign the authorized budget for these funds among the State-level services based on current
9 year actual expenditures.

10 **SECTION 12L.1.(k)** The sum of one million three hundred thousand dollars
11 (\$1,300,000) appropriated in this section in the Social Services Block Grant to the Department
12 of Health and Human Services, Division of Social Services, for each year of the 2015-2017
13 fiscal biennium shall be used to support various child welfare training projects as follows:

- 14 (1) Provide a regional training center in southeastern North Carolina.
- 15 (2) Provide training for residential child caring facilities.
- 16 (3) Provide for various other child welfare training initiatives.

17 **SECTION 12L.1.(l)** The Department of Health and Human Services is authorized,
18 subject to the approval of the Office of State Budget and Management, to transfer Social
19 Services Block Grant funding allocated for departmental administration between divisions that
20 have received administrative allocations from the Social Services Block Grant.

21 **SECTION 12L.1.(m)** Social Services Block Grant funds appropriated for the
22 Special Children Adoption Incentive Fund will require a fifty-percent (50%) local match.

23 **SECTION 12L.1.(n)** The sum of five million forty thousand dollars (\$5,040,000)
24 appropriated in this section in the Social Services Block Grant for each year of the 2015-2017
25 fiscal biennium shall be allocated to the Department of Health and Human Services, Division
26 of Social Services. The Division shall allocate these funds to local departments of social
27 services to replace the loss of Child Protective Services State funds that are currently used by
28 county governments to pay for Child Protective Services staff at the local level. These funds
29 shall be used to maintain the number of Child Protective Services workers throughout the State.
30 These Social Services Block Grant funds shall be used to pay for salaries and related expenses
31 only and are exempt from 10A NCAC 71R .0201(3) requiring a local match of twenty-five
32 percent (25%).

33 **SECTION 12L.1.(o)** The sum of three million eight hundred fifty-two thousand
34 five hundred dollars (\$3,852,500) appropriated in this section in the Social Services Block
35 Grant to the Department of Health and Human Services, Division of Central Management and
36 Support, shall be used for DHHS competitive block grants pursuant to Section 12A.8 of this act
37 for each year of the 2015-2017 fiscal biennium. These funds are exempt from the provisions of
38 10A NCAC 71R .0201(3).

39 **SECTION 12L.1.(p)** The sum of three hundred seventy-five thousand dollars
40 (\$375,000) appropriated in this section in the Social Services Block Grant for each year of the
41 2015-2017 fiscal biennium to the Department of Health and Human Services, Division of
42 Social Services, shall be used to continue support for the Child Advocacy Centers, and the
43 funds are exempt from the provisions of 10A NCAC 71R .0201(3).

44 **SECTION 12L.1.(q)** The sum of three million nine hundred seventy-eight thousand
45 three hundred sixty dollars (\$3,978,360) for each year of the 2015-2017 fiscal biennium
46 appropriated in this section in the Social Services Block Grant to the Department of Health and
47 Human Services, Divisions of Social Services and Aging and Adult Services, shall be used for
48 guardianship services pursuant to Chapter 35A of the General Statutes. The Department may
49 expend funds appropriated in this section to support (i) existing corporate guardianship
50 contracts during the 2015-2016 and 2016-2017 fiscal years and (ii) guardianship contracts

1 transferred to the State from local management entities or managed care organizations during
2 the 2015-2016 and 2016-2017 fiscal years.

4 **LOW-INCOME ENERGY ASSISTANCE BLOCK GRANT**

5 **SECTION 12L.1.(r)** Additional emergency contingency funds received may be
6 allocated for Energy Assistance Payments or Crisis Intervention Payments without prior
7 consultation with the Joint Legislative Oversight Committee on Health and Human Services.
8 Additional funds received shall be reported to the Joint Legislative Oversight Committee on
9 Health and Human Services and the Fiscal Research Division upon notification of the award.
10 The Department of Health and Human Services shall not allocate funds for any activities,
11 including increasing administration, other than assistance payments, without prior consultation
12 with the Joint Legislative Oversight Committee on Health and Human Services.

13 **SECTION 12L.1.(s)** The sum of forty million two hundred forty-four thousand five
14 hundred thirty-four dollars (\$40,244,534) for the 2015-2016 fiscal year and the sum of
15 thirty-nine million three hundred three thousand six hundred seventy-four dollars (\$39,303,674)
16 for the 2016-2017 fiscal year appropriated in this section in the Low-Income Energy Assistance
17 Block Grant to the Department of Health and Human Services, Division of Social Services,
18 shall be used for Energy Assistance Payments for the households of (i) elderly persons age 60
19 and above with income up to one hundred thirty percent (130%) of the federal poverty level
20 and (ii) disabled persons eligible for services funded through the Division of Aging and Adult
21 Services.

22 County departments of social services shall submit to the Division of Social
23 Services an outreach plan for targeting households with 60-year-old household members no
24 later than August 1 of each year. The outreach plan shall comply with the following:

- 25 (1) Ensure that eligible households are made aware of the available assistance,
26 with particular attention paid to the elderly population age 60 and above and
27 disabled persons receiving services through the Division of Aging and Adult
28 Services.
- 29 (2) Include efforts by the county department of social services to contact other
30 State and local governmental entities and community-based organizations to
31 (i) offer the opportunity to provide outreach and (ii) receive applications for
32 energy assistance.
- 33 (3) Be approved by the local board of social services or human services board
34 prior to submission.

36 **CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT**

37 **SECTION 12L.1.(t)** Payment for subsidized child care services provided with
38 federal TANF funds shall comply with all regulations and policies issued by the Division of
39 Child Development for the subsidized child care program.

40 **SECTION 12L.1.(u)** If funds appropriated through the Child Care and
41 Development Fund Block Grant for any program cannot be obligated or spent in that program
42 within the obligation or liquidation periods allowed by the federal grants, the Department may
43 move funds to child care subsidies, unless otherwise prohibited by federal requirements of the
44 grant, in order to use the federal funds fully.

46 **MENTAL HEALTH SERVICES BLOCK GRANT**

47 **SECTION 12L.1.(v)** The sum of six hundred forty-three thousand four hundred
48 ninety-one dollars (\$643,491) appropriated in this section in the Mental Health Services Block
49 Grant to the Department of Health and Human Services, Division of Mental Health,
50 Developmental Disabilities, and Substance Abuse Services, for each year of the 2015-2017
51 fiscal biennium is allocated for Mental Health Services – First Psychotic Symptom Treatment.

1 The Division shall report on (i) the specific evidence-based treatment and services provided,
2 (ii) the number of persons treated, and (iii) the measured outcomes or impact on the participants
3 served. The Division shall report to the House of Representatives Appropriations Committee on
4 Health and Human Services, the Senate Appropriations Committee on Health and Human
5 Services, and the Fiscal Research Division no later than December 31, 2016.

6 7 **SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT**

8 **SECTION 12I.1.(w)** The sum of two hundred fifty thousand dollars (\$250,000)
9 appropriated in this section in the Substance Abuse Prevention and Treatment Block Grant to
10 the Department of Health and Human Services, Division of Mental Health, Developmental
11 Disabilities, and Substance Abuse Services, for each year of the 2015-2017 fiscal biennium
12 shall be allocated to the Department of Administration, Division of Veterans Affairs, to
13 establish a call-in center to assist veterans in locating service benefits and crisis services. The
14 call-in center shall be staffed by certified veteran peers within the Division of Veterans Affairs
15 and trained by the Division of Mental Health, Developmental Disabilities, and Substance
16 Abuse Services.

17 18 **MATERNAL AND CHILD HEALTH BLOCK GRANT**

19 **SECTION 12I.1.(x)** If federal funds are received under the Maternal and Child
20 Health Block Grant for abstinence education, pursuant to section 912 of Public Law 104-193
21 (42 U.S.C. § 710), for the 2015-2016 fiscal year or the 2016-2017 fiscal year, then those funds
22 shall be transferred to the State Board of Education to be administered by the Department of
23 Public Instruction. The Department of Public Instruction shall use the funds to establish an
24 abstinence until marriage education program and shall delegate to one or more persons the
25 responsibility of implementing the program and G.S. 115C-81(e1)(4) and (4a). The Department
26 of Public Instruction shall carefully and strictly follow federal guidelines in implementing and
27 administering the abstinence education grant funds.

28 **SECTION 12I.1.(y)** The Department of Health and Human Services shall ensure
29 that there will be follow-up testing in the Newborn Screening Program.

30 **SECTION 12I.1.(z)** The sum of one million five hundred seventy-five thousand
31 dollars (\$1,575,000) appropriated in this section in the Maternal and Child Health Block Grant
32 to the Department of Health and Human Services, Division of Public Health, for each year of
33 the 2015-2017 fiscal biennium shall be used for evidence-based programs in counties with
34 highest infant mortality rates. The Division shall report on (i) the counties selected to receive
35 the allocation, (ii) the specific evidenced-based services provided, (iii) the number of women
36 served, and (iv) any impact on the counties' infant mortality rate. The Division shall report its
37 findings to the House of Representatives Appropriations Committee on Health and Human
38 Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal
39 Research Division no later than December 31, 2016.

40 **SECTION 12I.1.(aa)** The sum of one hundred thousand dollars (\$100,000)
41 allocated in this section in the Maternal and Child Health Block Grant to the Department of
42 Health and Human Services, Division of Public Health, for each year of the 2015-2017 fiscal
43 biennium for community-based sickle cell centers shall not be used to supplant existing State or
44 federal funds.

45 46 **PART XIII. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

47 48 **TVA SETTLEMENT FUNDS**

49 **SECTION 13.2.** In fiscal year 2015-2016, The Department of Agriculture and
50 Consumer Services shall apply for two million two hundred forty thousand dollars (\$2,240,000)
51 from the Tennessee Valley Authority Settlement Agreement in compliance with the

1 requirements of paragraphs 122 through 128 of the Consent Decree entered into by the State in
2 *State of Alabama et al. v. Tennessee Valley Authority*, Civil Action 3:11-cv-00170 in the United
3 States District Court for the Eastern District of Tennessee, and Appendix C to the Compliance
4 Agreement. The funds received by the State shall be allocated to the following programs for
5 projects, with priority given to projects in the counties of Avery, Buncombe, Burke, Cherokee,
6 Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Swain,
7 Transylvania, Watauga, and Yancey:

- 8 (1) One million dollars (\$1,000,000) to the Agriculture Cost Share Program for
9 Nonpoint Source Pollution Control.
- 10 (2) Five hundred thousand dollars (\$500,000) to the Department's Bioenergy
11 Development Program.
- 12 (3) Five hundred thousand dollars (\$500,000) to the North Carolina Agricultural
13 Development and Farmland Preservation Trust Fund to be used,
14 notwithstanding G.S. 106-744, in the areas specified in this section.
- 15 (4) Two hundred forty thousand dollars (\$240,000) to the North Carolina
16 Agricultural Water Resources Assistance Program.

17 18 **DISPOSITION OF ROSE HILL LABORATORY PROPERTY**

19 **SECTION 13.3.** The Department of Administration shall sell the building and
20 associated real property formerly used to house the Veterinary Diagnostic Laboratory located in
21 the Town of Rose Hill in Duplin County.
22

23 **DRUG MANUFACTURING LICENSING AND REGISTRATION FEES**

24 **SECTION 13.4.(a)** G.S. 106-140.1(h) reads as rewritten:

25 "(h) The Commissioner shall adopt rules to implement the registration requirements of
26 this section. These rules ~~may shall~~ provide for an annual registration fee of ~~up to five hundred~~
27 ~~dollars (\$500.00)~~ one thousand dollars (\$1,000) for companies operating as ~~manufacturers,~~
28 ~~wholesalers, or repackagers.~~ manufacturers or repackagers and seven hundred dollars (\$700.00)
29 for companies operating as wholesalers. The Department of Agriculture and Consumer
30 Services shall use these funds for the implementation of the North Carolina Food, Drug and
31 Cosmetic Act."
32

32 **SECTION 13.4.(b)** G.S. 106-145.4(b) reads as rewritten:

33 **"§ 106-145.4. Application and fee for license.**

34 "(b) Fee. – An application for an initial license or a renewed license as a wholesale
35 distributor shall be accompanied by a nonrefundable fee of ~~five hundred dollars (\$500.00)~~ one
36 thousand dollars (\$1,000) for a manufacturer or ~~three hundred fifty dollars (\$350.00)~~ seven
37 hundred dollars (\$700.00) for any other person."
38

39 **FOOD MANUFACTURER AND RETAILER INSPECTION FEES**

40 **SECTION 13.5.** G.S. 106-254 reads as rewritten:

41 **"§ 106-254. Inspection fees; wholesalers; retailers and cheese factories.**

42 For the purpose of defraying the expenses incurred in the enforcement of this Article, the
43 owner, proprietor or operator of each ice cream factory where ice cream, milk shakes, milk
44 sherbet, sherbet, water ices, mixes for frozen or semifrozen desserts and other similar frozen or
45 semifrozen food products are made or stored, or any cheese factory or butter-processing plant
46 that disposes of its products at wholesale to retail dealers for resale in this State shall pay to the
47 Commissioner of Agriculture each year an inspection fee of ~~forty dollars (\$40.00)~~ one hundred
48 dollars (\$100.00). Each maker of ice cream, milk shakes, milk sherbet, sherbet, water ices
49 and/or other similar frozen or semifrozen food products who disposes of his product at retail
50 only, and cheese factories, shall pay to the Commissioner of Agriculture an inspection fee of
51 ~~ten dollars (\$10.00)~~ fifty dollars (\$50.00) each year. The inspection fee of ~~ten dollars (\$10.00)~~

1 fifty dollars (\$50.00) shall not apply to conventional spindle-type milk-shake mixers, but shall
2 apply to milk-shake dispensing and vending machines, which operate on a continuous or
3 automatic basis."
4

5 SPAY/NEUTER PROGRAM REVISIONS

6 **SECTION 13.7.** G.S. 19A-63 reads as rewritten:

7 "§ 19A-63. Eligibility for distributions from Spay/Neuter Account.

8 (a) A county or city is eligible for reimbursement from the Spay/Neuter Account if it
9 meets the following condition:

10 (1) The county or city offers one or more of the following programs to
11 low-income persons on a year-round basis for the purpose of reducing the
12 cost of spaying and neutering procedures for dogs and cats:

13 a. A spay/neuter clinic operated by the county or city.

14 ~~b. A spay/neuter clinic operated by a private organization under~~
15 ~~contract or other arrangement with the county or city.~~

16 c. A contract or contracts with one or more veterinarians, whether or
17 not located within the county, to provide reduced-cost spaying and
18 neutering procedures.

19 d. Subvention of the spaying and neutering costs incurred by
20 low-income pet owners through the use of vouchers or other
21 procedure that provides a discount of the cost of the spaying or
22 neutering procedure fixed by a participating veterinarian or other
23 provider.

24 e. Subvention of the spaying and neutering costs incurred by persons
25 who adopt a pet from an animal shelter operated by or under contract
26 with the county or city.

27 (2) Reserved for future codification purposes.

28 (b) For purposes of this Article, the term "low-income person" shall mean an individual
29 ~~who qualifies for one or more of the programs of public assistance administered by the~~
30 ~~Department of Health and Human Services pursuant to Chapter 108A of the General Statutes or~~
31 whose annual household income is ~~under three hundred percent (300%) lower than one~~
32 hundred percent (100%) of the federal poverty level guidelines published by the United States
33 Department of Health and Human Services.

34 (c) Each county shall make rules or publish guidelines that designate what proof a
35 low-income person must submit to establish that the person ~~qualifies for public assistance~~
36 ~~under subsection (b) of this section or has an annual household income lower than three~~
37 ~~hundred percent (300%) one hundred percent (100%)~~ of the federal poverty level guidelines
38 published by the United States Department of Health and Human Services."
39

40 CONSERVATION RESERVE ENHANCEMENT PROGRAM REPORT

41 **SECTION 13.8.(a)** The Department of Agriculture and Consumer Services shall
42 study and report on the activities of the Conservation Reserve Enhancement Program. The
43 report shall include, at a minimum, the following components:

44 (1) A listing of contracts currently in effect and contracts entered into in each of
45 the last five fiscal years, including the acreage and location of the land under
46 contract and the distribution of contracts by duration.

47 (2) A five-year projection of future funding requirements.

48 (3) A detailed listing of the conservation practices used at project sites over the
49 last five fiscal years and an assessment of the effectiveness of those practices
50 for preventing or reducing nonpoint source pollution.

- 1 (4) An assessment of the effectiveness and impact of the program in both
2 protection of waterways from nonpoint source pollution and the leveraging
3 of additional programs and efforts to reduce nonpoint source pollution.

4 **SECTION 13.8.(b)** The Department shall submit its findings and report to the
5 chairs of the Senate Appropriations Committee on Natural and Economic Resources and the
6 House Appropriations Committee on Agriculture and Natural and Economic Resources and to
7 the Fiscal Research Division no later than April 1, 2016.

8 9 **CRAFT BEER MARKETING**

10 **SECTION 13.9.** The additional funds allocated by this act to the Marketing
11 Division of the Department of Agriculture and Consumer Services shall be used for the
12 promotion of craft beer produced in the State.

13 14 **REPEAL MINE SAFETY AND HEALTH ACT**

15 **SECTION 13.10.(a)** Article 2A of Chapter 74 of the General Statutes is repealed.

16 **SECTION 13.10.(b)** G.S. 130A-460 reads as rewritten:

17 "**§ 130A-460. Report to Department of Labor.**

18 ...

19 (c) Subsection (b) shall not apply to inspections conducted for the Industrial
20 Commission pursuant to ~~G.S. 97-76 and shall not affect the allocation of responsibilities set~~
21 ~~forth in G.S. 74-24.4(e)-G.S. 97-76."~~

22 23 **PART XIV. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

24 25 **PROSPERITY ZONE DENR LIAISONS**

26 **SECTION 14.1.** Section 4.1 of S.L. 2014-18 reads as rewritten:

27 "**SECTION 4.1.** No later than January 1, 2015, the Departments of Commerce,
28 Environment and Natural Resources, and Transportation shall have at least one employee
29 physically located in the same office in each of the Collaboration for Prosperity Zones set out
30 in G.S. 143B-28.1 to serve as that department's liaison with the other departments and with
31 local governments, schools and colleges, planning and development bodies, and businesses in
32 that zone. The departments shall jointly select the office. For purposes of this Part, the
33 Department of Commerce may contract with a North Carolina nonprofit corporation pursuant
34 to G.S. 143B-431A, as enacted by this act, to fulfill the departmental liaison requirements for
35 each office in each of the Collaboration for Prosperity ~~Zones-Zones, and the Department of~~
36 Environment and Natural Resources shall fulfill the departmental liaison requirements from
37 existing positions.

38 No later than January 1, 2015, the Community Colleges System Office shall designate at
39 least one representative from a community college or from the Community Colleges System
40 Office to serve as a liaison in each Collaboration for Prosperity Zone for the community
41 college system, the community colleges in the zone, and other educational agencies and schools
42 within the zone. A liaison may be from a business center located in a community college. These
43 liaisons are not required to be collocated with the liaisons from the Departments of Commerce,
44 Environment and Natural Resources, and Transportation.

45 No later than January 1, 2015, the State Board of Education shall designate at least one
46 representative from a local school administrative unit or from the Department of Public
47 Instruction to serve as a liaison in each Collaboration for Prosperity Zone for the local school
48 administrative units and other public schools within the zone. These liaisons are not required to
49 be collocated with the liaisons from the Departments of Commerce, Environment and Natural
50 Resources, and Transportation."

1 **IMPROVE FINANCIAL MANAGEMENT OF ENVIRONMENTAL STEWARDSHIP**
2 **FUNDS THROUGH CONSERVATION GRANT FUND**

3 **SECTION 14.2.** G.S. 147-69.2(d) reads as rewritten:

4 "(d) The State Treasurer may invest funds deposited pursuant to ~~subdivision~~
5 ~~(a)(17i) subdivisions (a)(17i) or (a)(17j)~~ of this section in any of the investments authorized
6 under subdivisions (1) through (6) and subdivision (8) of subsection (b) of this section. The
7 State Treasurer may require a minimum deposit, up to one hundred thousand dollars
8 (\$100,000), and may assess a reasonable fee, not to exceed 15 basis points, as a condition of
9 participation pursuant to this subsection. Funds deposited pursuant to this subsection shall
10 remain the funds of the North Carolina Conservation Easement Endowment ~~Fund, Fund or the~~
11 Conservation Grant Fund, as applicable, and interest or other investment income earned thereon
12 shall be prorated and credited to the North Carolina Conservation Easement Endowment ~~Fund~~
13 Fund or the Conservation Grant Fund on the basis of the amounts ~~thereof~~
14 contributed, contributed to the respective Funds, figured according to sound accounting
15 principles."
16

17 **ALLOW REVENUE GENERATED FROM TIMBER SALE TO BE RETAINED IN A**
18 **NONREVERTING ACCOUNT FOR A PERIOD OF FOUR YEARS**

19 **SECTION 14.3.** The Department of Environment and Natural Resources'
20 Stewardship Program may retain revenue generated from timber harvesting on the Great
21 Coharie property in the Conservation Grant Endowment Interest Fund (6705) for the purpose of
22 restoration and stewardship of that property and these funds are hereby appropriated for that
23 purpose. Any unused portion of this revenue remaining in the Fund on June 30, 2019, shall
24 revert to the General Fund.
25

26 **ENVIRONMENTAL MANAGEMENT OF IMPAIRED LAKES**

27 **SECTION 14.5.(a)** Of the funds appropriated in this act to the Clean Water
28 Management Trust Fund, the sum of five million dollars (\$5,000,000) in the 2015-2017 fiscal
29 biennium shall be used by the Department of Environment and Natural Resources to plan and
30 execute in situ water quality mitigation measures at Jordan Lake and Falls Lake as described in
31 this section and to initiate data collection and modeling of nutrient-related water quality
32 impairment at High Rock Lake. Priority shall be given to the development and support of
33 basinwide nutrient management strategies that include in-lake water quality mitigation.
34

35 **JORDAN LAKE**

36 **SECTION 14.5.(b)** The General Assembly finds that, due to the late deployment of
37 the Jordan Lake Nutrient Mitigation Demonstration Project (Jordan Lake Project) established
38 by Section 14.3A of S.L. 2013-360, and as recommended to the Senate
39 Agriculture/Environment/Natural Resources Committee by the Department of Environment and
40 Natural Resources, an extension of the Jordan Lake Project authorization is necessary. With
41 funds allocated by this section, the Department shall extend by 24 months the duration of the
42 Jordan Lake Project, as well as any associated water quality monitoring, contracts with third
43 parties, contract support, and oversight activities. In addition, the Department is authorized to
44 expand the scope of the Jordan Lake Project and may enter into additional contracts with third
45 parties for in-lake mitigation technologies to supplement the existing Jordan Lake Project. The
46 funds allocated by this section may also be used for that purpose. Any additional contracts
47 entered into under this subsection shall not be subject to Articles 3, 3D, or 8 of Chapter 143 of
48 the General Statutes.

49 **SECTION 14.5.(c)** Section 1(b) of S.L. 2013-395 reads as rewritten:

50 **"SECTION 1.(b)** The implementation dates of the Jordan Lake Rules and Jordan Lake
51 Session Laws that begin July 1, 2013, or later shall be delayed for a period of ~~three~~ five years."

1 **SECTION 14.5.(d)** Section 14.3A(b) of S.L. 2013-360 reads as rewritten:

2 "**SECTION 14.3A.(b)** Report. – ~~No later than October 1, 2015, the~~ The Department of
3 Environment and Natural Resources shall submit ~~an interim report~~ reports on implementation
4 of the demonstration project to the Environmental Review Commission and the Fiscal Research
5 Division of the General ~~Assembly.~~ Assembly no later than October 1 of 2015 and 2016. No
6 later than ~~April 1, 2016,~~ April 1, 2017, the Department of Environment and Natural Resources
7 shall submit a final report on implementation of the demonstration project to the Environmental
8 Review Commission and the Fiscal Research Division of the General Assembly."
9

10 **FALLS LAKE**

11 **SECTION 14.5.(e)** In implementing the Falls Lake Nutrient Management Strategy,
12 the Department and the Environmental Management Commission shall do both of the
13 following:

- 14 (1) Examine the results of the Jordan Lake Project to determine if the
15 deployment of similar technology in Falls Lake could reduce or prevent the
16 adverse impacts of excessive nutrient loading in Falls Lake. No later than six
17 months after the completion of the Jordan Lake Nutrient Mitigation
18 Demonstration Project, the Department and the Environmental Management
19 Commission shall report the results of the determination made pursuant to
20 this subdivision to the Environmental Review Commission.
- 21 (2) No later than October 1, 2015, consult with the United States Environmental
22 Protection Agency to determine if all of the components of the Falls Lake
23 Nutrient Management Strategy are necessary to comply with federal water
24 quality requirements for Falls Lake and if alternative strategies could be
25 employed to comply with federal water quality requirements for Falls Lake.
26 No later than January 1, 2016, the Department of Environment and Natural
27 Resources and the Environmental Management Commission shall report the
28 results of the consultation made pursuant to this subdivision to the
29 Environmental Review Commission.

30 **SECTION 14.5.(f)** The Department may use funds allocated by this section to
31 establish a 24-month demonstration project for the management of nutrients in Falls Lake. The
32 demonstration project shall specifically focus on preventing and reducing harmful algal blooms
33 and excessive chlorophyll as well as providing other nutrient mitigation measures through use
34 of in situ technologies approved by the Secretary of Environment and Natural Resources. The
35 Department may purchase or lease technology devices and, notwithstanding any other
36 provision of law, may enter into prepaid leases for technology devices until June 30, 2017. The
37 Department, in consultation with the Environmental Management Commission, shall have the
38 sole authority to determine the size and scope of any demonstration project as well as the
39 technology or technologies deployed, provided, however, that the Department shall issue a
40 Request for Proposal for any leases or contracts authorized by this subsection and shall evaluate
41 and select contractors based on likelihood of success rather than price and, therefore, any
42 contract entered into under this subsection shall not be subject to Article 3, 3D or 8 of Chapter
43 143 of the General Statutes.
44

45 **CLEAN WATER MANAGEMENT TRUST FUND PURPOSES**

46 **SECTION 14.5A.(a)** G.S. 113A-253(c) reads as rewritten:

47 "(c) Fund Purposes. – Moneys from the Fund are appropriated annually to finance
48 projects to clean up or prevent surface water pollution and for land preservation in accordance
49 with this Article. ~~Revenue~~ The Trustees shall observe the following primary and secondary
50 priorities in allocation or awarding revenue in the Fund ~~may be used for any of the following~~
51 ~~purposes:~~ Fund. Funds may be used for a grant to fund a project for a purpose that is a

1 secondary priority only if no grant applicants for projects for a purpose that is a primary
2 priority meet the criteria for funding established by the Trustees:

- 3 (1) ~~To acquire land for riparian buffers for the purposes of providing~~
4 ~~environmental protection for surface waters and urban drinking water~~
5 ~~supplies and establishing a network of riparian greenways for environmental,~~
6 ~~educational, and recreational uses.~~
7 (2) ~~To acquire conservation easements or other interests in real property for the~~
8 ~~purpose of protecting and conserving surface waters and enhancing drinking~~
9 ~~water supplies, including the development of water supply reservoirs.~~
10 (3) ~~To coordinate with other public programs involved with lands adjoining~~
11 ~~water bodies to gain the most public benefit while protecting and improving~~
12 ~~water quality.~~
13 (4) ~~To restore previously degraded lands to reestablish their ability to protect~~
14 ~~water quality.~~
15 (5) ~~through (7) Repealed by Session Laws 2013 360, s. 14.3(d), effective~~
16 ~~August 1, 2013.~~
17 (8) ~~To facilitate planning that targets reductions in surface water pollution.~~
18 (8a) ~~To finance innovative efforts, including pilot projects, to improve~~
19 ~~stormwater management, to reduce pollutants entering the State's waterways,~~
20 ~~to improve water quality, and to research alternative solutions to the State's~~
21 ~~water quality problems.~~
22 (8b) ~~To provide buffers around military bases or for State matching funds for the~~
23 ~~Readiness and Environmental Protection Initiative, a federal funding~~
24 ~~initiative that provides funds for military buffers.~~
25 (8c) ~~To acquire land that represents the ecological diversity of North Carolina,~~
26 ~~including natural features such as riverine, montane, coastal, and geologic~~
27 ~~systems and other natural areas to ensure their preservation and conservation~~
28 ~~for recreational, scientific, educational, cultural, and aesthetic purposes.~~
29 (8d) ~~To acquire land that contributes to the development of a balanced State~~
30 ~~program of historic properties.~~
31 (8e) ~~To authorize expenditures from the Fund not to exceed the sum of seven~~
32 ~~hundred fifty thousand dollars (\$750,000) and any fees collected under~~
33 ~~G.S. 113A-164.12 to pay for the inventory of natural areas conducted under~~
34 ~~the Natural Heritage Program established pursuant to the Nature Preserves~~
35 ~~Act, Article 9A of Chapter 113A of the General Statutes, and to pay for~~
36 ~~conservation and protection planning and for informational programs for~~
37 ~~owners of natural areas, as defined in G.S. 113A-164.3.~~
38 (9) ~~To fund operating expenses of the Board of Trustees and its staff.~~

39 (1) Primary purposes:

- 40 a. To finance innovative efforts, including pilot projects, to improve
41 stormwater management, to reduce pollutants entering the State's
42 waterways, to improve water quality, to mitigate water quality in-situ
43 through use of in-water technologies in State rivers and lakes, and to
44 research alternative solutions to the State's water quality problems.
45 b. To provide buffers around military bases or for State matching funds
46 for the Readiness and Environmental Protection Initiative, a federal
47 funding initiative that provides funds for military buffers.
48 c. To promote activities related to the reintroduction and expansion of
49 shellfish populations within waters of the State when that
50 reintroduction or expansion will improve water quality.

1 d. To facilitate planning that targets reductions in surface water
 2 pollution.

3 (2) Secondary purposes:

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

8 b. To acquire conservation easements or other interests in real property
 9 for the purpose of protecting and conserving surface waters and
 10 enhancing drinking water supplies, including the development of
 11 water supply reservoirs.

12 c. To coordinate with other public programs involved with lands
 13 adjoining water bodies to gain the most public benefit while
 14 protecting and improving water quality.

15 d. To restore previously degraded lands to reestablish their ability to
 16 protect water quality.

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

22 f. To acquire land that contributes to the development of a balanced
 23 State program of historic properties."

24 **SECTION 14.5A.(b)** G.S. 113A-253(d) is repealed.

25 **INLET AND PORT ACCESS MANAGEMENT**

26 **SECTION 14.6.(a)** G.S. 143-215.73F reads as rewritten:

27 **"§ 143-215.73F. Shallow Draft Navigation Channel Dredging and Lake Maintenance**
 28 **Fund.**

29 (a) Fund Established. – The Shallow Draft Navigation Channel Dredging and Lake
 30 Maintenance Fund is established as a special revenue fund. The Fund consists of fees credited
 31 to it under ~~G.S. 75A-3, 75A-38, G.S. 75A-3 and G.S. 75A-38 and 105-449.126.~~ taxes credited
 32 under G.S. 105-449.126.

33 (b) Uses of Fund. – Revenue in the Fund may only be used ~~to~~ for the following
 34 purposes:

35 (1) To provide the State's share of the costs associated with any dredging project
 36 designed to keep shallow draft navigation channels located in State waters or
 37 waters of the state located within lakes navigable and ~~safe, or for safe.~~

38 (2) For aquatic weed control projects in waters of the State located within lakes
 39 under Article 15 of Chapter 113A of the General Statutes. Funding for
 40 aquatic weed control projects is limited to five hundred thousand dollars
 41 (\$500,000) in each fiscal year.

42 (c) Cost-Share. – Any project funded by revenue from the Fund must be cost-shared
 43 with non-State dollars on a one-to-one basis, provided that the cost-share for a lake located
 44 within a component of the State Parks System shall be provided by the Division of Parks and
 45 Recreation of the Department of Environment and Natural Resources. The Division of Parks
 46 and Recreation may use funds allocated to the State Parks System for capital projects under
 47 G.S. 113-44.15 for the cost-share.

48 (d) Waiver of Cost-Share. – The Secretary may waive or modify the non-State
 49 cost-share requirement for dredging projects that (i) alleviate a navigational emergency or (ii)
 50 represent an opportunity to supplement or leverage Corps funding that would be lost if a
 51

1 cost-share was required. The Secretary may only waive or modify the non-State cost-share
2 requirement up to an amount not to exceed five hundred thousand dollars (\$500,000) per
3 project.

4 (e) Return of Non-State Entity Funds. – Non-State entities that contribute to the Fund
5 for a particular project or group of projects may make a written request to the Secretary that the
6 contribution be returned if the contribution has not been spent or encumbered within two years
7 of receipt of the contribution by the Fund. If the written request is made prior to the funds being
8 spent or encumbered, the Secretary shall return the funds to the entity within 30 days after the
9 later of (i) receiving the request or (ii) the expiration of the two-year period described by this
10 subsection.

11 (f) Reporting. – The Secretary shall report any waivers or modifications of the
12 cost-share requirement made under subsection (d) of this section within 30 days of issuing the
13 waiver or modification to the Joint Legislative Commission on Governmental Operations and
14 the Fiscal Research Division of the General Assembly. The report shall include an explanation
15 of the factors in subsection (d) of this section that are the basis for the waiver or modification
16 decision.

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

18 (1) Corps. – The United States Army Corps of Engineers.

19 (2) Costs associated with a dredging project. – Includes the cost of the dredging
20 operation, surveys or studies directly attributable to the project, and the costs
21 of disposal of dredged material.

22 (3) Navigational emergency. – With respect to a shallow draft navigation
23 channel, the removal of or statement of intent to remove one or more
24 navigational buoys by the United States Coast Guard from the channel due
25 to shoaling.

26 (4) Shallow draft navigation channel. – (i) a ~~A~~ waterway connection with a
27 maximum depth of 16 feet between the Atlantic Ocean and a bay or the
28 Atlantic Intracoastal Waterway, (ii) a river entrance to the Atlantic Ocean
29 through which tidal and other currents flow, or (iii) other interior coastal
30 waterways. "~~Shallow draft navigation channel~~" The term includes the
31 Atlantic Intracoastal Waterway and its side channels, Beaufort Harbor,
32 Bogue Inlet, Carolina Beach Inlet, the channel from Back Sound to Lookout
33 Back, channels connected to federal navigation channels, Lockwoods Folly
34 River, Manteo/Shallowbag Bay, including Oregon Inlet, Masonboro Inlet,
35 New River, New Topsail Inlet, Rodanthe, Hatteras Inlet, Rollinson, Shallotte
36 River, Silver Lake Harbor, and the waterway connecting Pamlico Sound and
37 Beaufort Harbor."

38 **SECTION 14.6.(b)** Notwithstanding G.S. 143-215.73F, the funds available in the
39 Shallow Draft Navigation Channel Dredging and Lake Maintenance Fund shall be reserved for
40 all of the following purposes:

41 (1) The sum of four million dollars (\$4,000,000) shall be reserved for Oregon
42 Inlet dredging needs.

43 (2) The sum of one hundred fifty thousand dollars (\$150,000) shall be reserved
44 to reimburse the Department of Administration for its costs associated with
45 exploring options for acquiring Oregon Inlet and the adjacent real property,
46 including, but not limited to, surveys and appraisals, legal research, and
47 studies related to sand management, engineering proposals, and larval
48 transport.

49 (3) The sum of seven hundred fifty thousand dollars (\$750,000) shall be
50 reserved to reimburse the Department of Administration for its costs
51 associated with the implementation of Section 14.7(g) of S.L. 2014-100.

1 Upon completion of the actions defined in Sections 14.7(a) through (f) of
2 S.L. 2014-100 by the Secretary of Administration and the federal
3 government, Section 14.7(g) of S.L. 2014-100 is repealed. The Department
4 of Administration shall use the report submitted by the Department of
5 Transportation pursuant to Section 14.7(h) of S.L. 2014-100 and consult
6 with the Department of Transportation when prioritizing condemnation of all
7 existing and future transportation corridors on the Outer Banks, a right
8 retained by the State and recorded in a deed executed on August 7, 1958,
9 when these lands were conveyed to the federal government.

- 10 (4) The sum of two hundred fifty thousand dollars (\$250,000) shall be reserved
11 for use by the Department of Environment and Natural Resources to update
12 the Beach and Inlet Management Plan. The Department may enter into a
13 sole-source contract of up to two hundred fifty thousand dollars (\$250,000)
14 with the firm that developed the initial Plan to have the firm update the Plan.
15 The updated Plan shall include a recommended schedule for ongoing inlet
16 maintenance. No later than December 1, 2016, the Department shall report to
17 the Environmental Review Commission on the updated Plan.

18 The conditions on funding set out in G.S. 143-215.73F(c) may not be waived
19 pursuant to G.S. 143-215.73F(d) for funds reserved for the Oregon Inlet dredging needs set out
20 in subdivision (1) of this subsection. If State funds reserved for the purposes listed above are
21 not spent or encumbered by June 30, 2016, the State funds shall be unreserved and made
22 available for any of the uses set out in G.S. 143-215.73F.

23 **SECTION 14.6.(c)** Article 21 of Chapter 143 of the General Statutes is amended
24 by adding a new Part to read:

25 "Part 8C. Deep Draft Navigation Channel Dredging and Maintenance Fund.

26 "**§ 143-215.73G. Deep Draft Navigation Channel Dredging and Maintenance Fund.**

27 (a) Fund Established. – The Deep Draft Navigation Channel Dredging and Maintenance
28 Fund is established as a special revenue fund. The Fund consists of General Fund
29 appropriations, gifts, or grants, including monies contributed by a non-State entity for a
30 particular dredging project or group of projects and any other revenues specifically allocated to
31 the Fund by an act of the General Assembly.

32 (b) Uses of the Fund. – Revenue credited to the Fund may only be used for costs
33 associated with projects providing safe and efficient navigational access to a State Port,
34 including the design, construction, expansion, modification, or maintenance of deep draft
35 navigation channels, turning basins, berths, and related structures, as well as surveys or studies
36 related to any of the foregoing and the costs of disposal of dredged material.

37 (c) Conditions on Funding. – State funds credited to the Fund from the sources
38 described in subsection (a) of this section must be cost-shared on a one-to-one basis with funds
39 provided by the State Ports Authority, provided that:

40 (1) Funds contributed to the Fund by a non-State entity are not considered State
41 funds and may be used to provide the cost-share required by this subsection.

42 (2) The Secretary may waive or modify the cost-share requirement for any
43 project that supplements Corps funding for a study authorized by the Corps
44 related to navigational access to a State Port, based on availability of
45 alternate funding sources.

46 (d) Return of Non-State Entity Funds. – Non-State entities that contribute to the Fund
47 for a particular project or group of projects may make a written request to the Secretary that the
48 contribution be returned if the contribution has not been spent or encumbered within two years
49 of receipt of the contribution by the Fund. If the written request is made prior to the funds being
50 spent or encumbered, the Secretary shall return the funds to the entity within 30 days after the

1 later of (i) receiving the request or (ii) the expiration of the two-year period described by this
2 subsection.

3 (e) Definitions. – The following definitions apply in this Part:

4 (1) Corps. – The United States Army Corps of Engineers.

5 (2) State Port. – Facilities at Wilmington or Morehead City managed or operated
6 by the State Ports Authority."

7 **SECTION 14.6.(d)** SPA Memorandum of Agreement. – The State Ports Authority
8 shall negotiate with the United States Army Corps of Engineers (hereafter, "Corps") a
9 memorandum of agreement allowing for nonfederal funding of dredging and related studies or
10 maintenance at the State Ports located at Wilmington and Morehead City. The memorandum
11 required by this subsection shall be for as long a term as possible.

12 **SECTION 14.6.(e)** DENR Memorandum of Agreement. – The Division of Water
13 Resources of the Department of Environment and Natural Resources shall negotiate with the
14 Corps a memorandum of agreement allowing for nonfederal funding of dredging of Oregon
15 Inlet. The memorandum required by this subsection shall be for as long a term as possible.

16 **SECTION 14.6.(f)** Port Access Lands Acquisition Agreement. – Notwithstanding
17 Chapter 146 of the General Statutes or any other provision of law, the Department of
18 Administration, on behalf of the State, shall seek to initiate negotiations with the appropriate
19 agency of the federal government for an agreement to acquire the federally owned property
20 necessary for management of deep draft navigation channels providing access to State Port
21 facilities at Morehead City from the federal government in exchange for State-owned real
22 property.

23 (1) Interagency cooperation. – The North Carolina Ports Authority and the
24 Department of Transportation shall be included in the planning and carrying
25 out of these negotiations, but the ultimate approval authority remains solely
26 with the Secretary of the Department of Administration.

27 (2) Terms of agreement. – The Secretary of the Department of Administration
28 shall have the authority to negotiate the terms of the acquisition agreement.
29 The agreement (i) shall provide for the acquisition of interests in real
30 property described in this subsection and no other; (ii) shall provide that the
31 conveyances described in the agreement become effective as soon as
32 practicable; and (iii) shall incorporate the relevant terms of this subsection.

33 (3) Execution of deeds. – Within 30 days of the acquisition becoming effective,
34 the Attorney General shall execute any documents or deeds necessary to
35 effectuate the acquisition under the exact terms set forth in the acquisition
36 agreement. All State agencies and officials shall cooperate to the fullest
37 extent possible in effectuating the acquisition agreement.

38 (4) Reporting. – Within 30 days after an agreement is entered into pursuant to
39 this section, the Secretary of the Department of Administration shall report
40 to the Joint Legislative Commission on Governmental Operations on the
41 terms of the agreement.

42 **SECTION 14.6.(g)** Contested Case Exemption. – G.S. 150B-1(e) is amended by
43 adding a new subdivision to read:

44 "(e) Exemptions From Contested Case Provisions. – The contested case provisions of
45 this Chapter apply to all agencies and all proceedings not expressly exempted from the Chapter.
46 The contested case provisions of this Chapter do not apply to the following:

47 ...

48 (22) The Secretary of Environment and Natural Resources for the waiver or
49 modification of non-State cost-share requirements under G.S. 143-215.73F
50 and G.S. 143-215.73G."

1 **SECTION 14.6.(h)** The General Assembly finds that the New Inlet Dam or "The
2 Rocks" is a breakwater established by the United States Army Corps of Engineers in the late
3 1800s. The New Inlet Dam is composed of two components, a Northern Component that
4 extends from Federal Point to Zeke's Island and a Southern Component that extends
5 southwestward from Zeke's Island and separates the New Inlet from the main channel of the
6 Cape Fear River. The General Assembly further finds that the Southern Component of the New
7 Inlet Dam impedes the natural flow of water between the Cape Fear River and the Atlantic
8 Ocean that occurred prior to emplacement of the dam. The General Assembly further finds that
9 it is necessary to remove the Southern Component of the New Inlet Dam in order to reestablish
10 the natural hydrodynamic flow between the Cape Fear River and the Atlantic Ocean. To this
11 end, the Department of Environment and Natural Resources shall do all of the following:

- 12 (1) Notify the United States Army Corps of Engineers of the State's intent to
13 remove the Southern Component of the New Inlet Dam.
- 14 (2) Issue a Request for Proposals for a firm capable of conducting all aspects of
15 removal of the Southern Component of the New Inlet Dam, including
16 securing all necessary State and federal permits and developing and
17 implementing a removal plan. Identification of a capable firm pursuant to
18 this section shall be done in accordance with Article 8 of Chapter 143 of the
19 General Statutes.
- 20 (3) Execute a contract with the firm chosen to implement subdivision (2) of this
21 subsection and exercise oversight of the fulfillment of the contract.
22 Execution of a contract pursuant to this section shall be done in accordance
23 with Article 8 of Chapter 143 of the General Statutes.
- 24 (4) Request approval from the National Oceanic and Atmospheric
25 Administration to adjust the boundary established for Zeke's Island for both
26 of the following changes:
 - 27 a. Moving the current western boundary 200 feet seaward and
28 removing the area that lies between the current boundary and the new
29 boundary from the North Carolina National Estuarine Research
30 Reserve.
 - 31 b. Compensating for any loss of acreage pursuant to sub-subdivision a.
32 of this subdivision by adding a corresponding amount of acreage to
33 the northern boundary of Zeke's Island from adjacent acreage at Fort
34 Fisher State Recreation Area.
- 35 (5) If the Department obtains approval from the National Oceanic and
36 Atmospheric Administration to adjust the boundary established for Zeke's
37 Island as described in subdivision (4) of this subsection, the Coastal
38 Resources Commission shall amend 15A NCAC 070 .0105 (North Carolina
39 Coastal Reserve: Reserve Components) as follows:
 - 40 a. Definitions. – "Reserve Components Rule" means 15A NCAC 070
41 .0105 (North Carolina Coastal Reserve: Reserve Components) for
42 purposes of this section and its implementation.
 - 43 b. Reserve Components Rule. – Until the effective date of the revised
44 permanent rule that the Coastal Resources Commission is required to
45 adopt pursuant to sub-subdivision d. of this subdivision, the
46 Commission and the Department of Environment and Natural
47 Resources shall implement the Reserve Components Rule, as
48 provided in sub-subdivision c. of this subdivision.
 - 49 c. Implementation. – Notwithstanding the Reserve Components Rule,
50 the Commission shall adjust the boundary established for Zeke's
51 Island in conformance with any boundary change that is approved by

1 the National Oceanic and Atmospheric Administration pursuant to
2 subdivision (4) of this subsection.

3 d. Additional rule-making authority. – The Commission shall adopt a
4 rule to replace the Reserve Components Rule. Notwithstanding
5 G.S. 150B-19(4), the rule adopted by the Commission pursuant to
6 this subdivision shall be substantively identical to the provisions of
7 sub-subdivision c. of this subdivision. Rules adopted pursuant to this
8 subdivision are not subject to Part 3 of Article 2A of Chapter 150B
9 of the General Statutes. Rules adopted pursuant to this subdivision
10 shall become effective as provided in G.S. 150B-21.3(b1) as though
11 10 or more written objections had been received as provided by
12 G.S. 150B-21.3(b2).

13 e. Effective date. – Sub-subdivision c. of this subdivision expires when
14 permanent rules to replace sub-subdivision c. of this subdivision have
15 become effective, as provided by sub-subdivision d. of this
16 subdivision.

17 Notwithstanding any other provision of law, the Department of Environment and
18 Natural Resources may use funds from the Deep Draft Navigation Channel Dredging and
19 Maintenance Fund, established pursuant to G.S. 143-215.73G, as enacted by subsection (c) of
20 this section, to implement this subsection.

21 **SECTION 14.6.(i) Coastal Waterways User Identification Number and Fee. –**
22 Article 1 of Chapter 75A of the General Statutes is amended by adding a new section to read:

23 **"§ 75A-5.3. Coastal Waterways User Identification Number required.**

24 (a) Definitions. – As used in this section, "coastal fishing waters" has the same meaning
25 as in G.S. 113-129.

26 (b) Coastal Waterways User Identification Number Required. – All of the following
27 vessels are required to be numbered with a Coastal Waterways User Identification Number
28 issued by the Wildlife Resources Commission:

29 (1) A vessel required to be numbered pursuant to G.S. 75A-4 that is 24 feet or
30 more in length and that is operated in the coastal fishing waters of the State.

31 (2) A vessel that (i) is numbered in accordance with applicable federal law or in
32 accordance with a federally approved numbering system of another state, (ii)
33 is 24 feet or more in length, and (iii) is used to engage in commercial or
34 recreational fishing in the coastal fishing waters of the State under any of the
35 following fishing licenses:

36 a. A Standard Commercial Fishing License issued pursuant to
37 G.S. 113-168.2.

38 b. A Retired Standard Commercial Fishing License issued pursuant to
39 G.S. 113-168.3.

40 c. A Shellfish License issued pursuant to G.S. 113-169.2.

41 d. A Recreational Commercial Gear License issued pursuant to
42 G.S. 113-173.

43 e. A Coastal Recreational Fishing License issued pursuant to
44 G.S. 113-174.2 or G.S. 113-351.

45 f. A For-Hire License issued pursuant to G.S. 113-174.3.

46 (c) Fees. – The annual fee for a Coastal Waterways User Identification Number shall be
47 calculated by rounding down the length of the vessel to the nearest foot, dividing this length by
48 eight, and multiplying the result by the length of the vessel rounded down to the nearest foot.
49 The result of this calculation shall be rounded down to the nearest cent, and this result shall be
50 the dollar amount of the annual fee for each vessel. Notwithstanding this subsection, an annual
51 fee for a Coastal Waterways User Identification Number shall not be greater than the fee for a

1 100-foot vessel. The funds collected pursuant to this section shall be credited on a quarterly
2 basis to the Shallow Draft Navigation Channel Dredging and Lake Maintenance Fund
3 established by G.S. 143-215.73F.

4 (d) Renewal of Number. – An owner of a vessel issued a Coastal Waterways User
5 Identification Number pursuant to this section shall renew the number on or before the number
6 expires. If the number is not renewed before it expires, it shall lapse and be void until such time
7 as it may thereafter be renewed. Application for renewal shall be submitted on a form approved
8 by the Commission and shall be accompanied by a fee in the amount set forth in subsection (c)
9 of this section.

10 (e) Duplicate Number. – The Commission shall issue a duplicate number for a Coastal
11 Waterways User Identification Number upon application by the person entitled to hold the
12 number if the Commission is satisfied the original number has been lost, stolen, mutilated,
13 destroyed, or has become illegible.

14 (f) Vessel Change of Ownership. – Should the ownership of a vessel with a valid
15 Coastal Waterways User Identification Number change, a new application form with the fee set
16 forth in subsection (c) of this section shall be filed with the Commission by the new owner
17 upon expiration if the new owner intends to use the vessel as described in subsection (b) of this
18 section. Coastal Waterways User Identification Numbers are not transferable from one vessel to
19 another.

20 (g) Duration. – Coastal Waterways User Identification Numbers are valid for a period
21 of 12 months from the date of issuance. Subsequent renewals made before the expiration date
22 of the number are valid the first day after the expiration of the currently valid number.
23 Renewals made after the number expires are valid for a period of 12 months from the date of
24 issuance.

25 (h) Display. – Notwithstanding G.S. 75A-5(k), the Coastal Waterways User
26 Identification Number shall be displayed on each side of the bow of the vessel.

27 (i) Penalty. – A person who fails to obtain and display the Coastal Waterways User
28 Identification Number required by this section is responsible for an infraction as provided in
29 G.S. 14-3.1 and shall pay a fine equal to the amount of the fee for the applicable Coastal
30 Waterways User Identification Number.

31 (j) Rule Making. – The Wildlife Resources Commission shall adopt rules to implement
32 this section."

33 **SECTION 14.6.(j)** G.S. 75A-5.2(c) reads as rewritten:

34 "(c) As compensation for services rendered to the Commission and to the general public,
35 vessel agents shall receive the surcharge listed below. The surcharge shall be added to the fee
36 for each certificate issued.

37 (1) Renewal of certificate of number – \$3.00.

38 (2) Transfer of ownership and certificate of number – \$5.00.

39 (3) Issuance of new certificate of number – \$5.00.

40 (4) Issuance of duplicate certificate of number – \$3.00.

41 (5) Issuance or transfer of certificate of title – \$5.00.

42 (6) Issuance of new, duplicate, or renewal Coastal Waterways User
43 Identification Number – \$3.50."

44 **SECTION 14.6.(k)** The Wildlife Resources Commission shall disseminate
45 information regarding the Coastal Waterways User Identification Number to the public in order
46 to inform affected vessel owners of the Coastal Waterways User Identification Number
47 requirements.

48 **SECTION 14.6.(l)** Coastal Waterways User Fee Administrative Costs. –
49 Notwithstanding G.S. 75A-3, of the funds to be transferred to the Shallow Draft Navigation
50 Channel and Lake Dredging Fund pursuant to G.S. 75A-3, the Wildlife Resources Commission

1 may retain up to two hundred fifty thousand dollars (\$250,000) in each fiscal year of the
2 2015-2017 fiscal biennium to implement subsections (i), (j), and (k) of this section.

3 **SECTION 14.6.(m)** Amend Dare County Occupancy Tax. – Effective July 1,
4 2015, for net proceeds collected on or after that date, Chapter 449 of the 1985 Session Laws, as
5 amended by Chapters 177 and 906 of the 1991 Session Laws, Part VII of S.L. 2001-439, and
6 Section 7 of S.L. 2010-78, is amended by adding a new section to read:

7 "Sec. 3.3. Waterway Maintenance. – Notwithstanding any provision restricting the use of
8 taxes authorized in this act, the county may use up to three million dollars (\$3,000,000) of the
9 net proceeds of the taxes authorized by Sections 3.1 and 3.2 of this act per fiscal year for
10 maintenance of waterways located wholly or partially in the county. This section is repealed for
11 fiscal years beginning on or after July 1, 2020."

12 **SECTION 14.6.(n)** Section 1 of S.L. 2013-182 is repealed.

13 **SECTION 14.6.(o)** G.S. 153A-132(i), as rewritten by S.L. 2013-182, reads as
14 rewritten:

15 "(i) A county may by ordinance prohibit the abandonment of vessels in navigable waters
16 within the county's ordinance-making jurisdiction, subject to the provisions of this subsection.
17 The provisions of this section shall apply to abandoned vessels in the same manner that they
18 apply to abandoned or junked motor vehicles to the extent that the provisions may apply to
19 abandoned vessels. For purposes of this subsection, an "abandoned vessel" is one that meets
20 any of the following:

- 21 (1) A vessel that is moored, anchored, or otherwise located for more than 30
22 consecutive days in any 180 consecutive-day period without permission of
23 the dock owner.
- 24 (2) A vessel that is in danger of sinking, has sunk, is resting on the bottom, or is
25 located such that it is a hazard to navigation or is an immediate danger to
26 other vessels.

27 Shipwrecks, vessels, cargoes, tackle, and other underwater archeological remains that have
28 been in place for more than 10 years shall not be considered abandoned vessels and shall not be
29 removed under the provisions of this section without the approval of the Department of
30 Cultural Resources, which is the legal custodian of these properties pursuant to G.S. 121-22
31 and G.S. 121-23. This subsection applies only to the counties set out in G.S. 113A-103(2)."

32 **SECTION 14.6.(p)** The Coastal Resources Commission shall amend its rules for
33 the use of temporary erosion control structures to provide for all of the following:

- 34 (1) Allow the placement of temporary erosion control structures on a property
35 that is experiencing coastal erosion even if there are no imminently
36 threatened structures on the property if the property is adjacent to a property
37 where temporary erosion control structures have been placed.
- 38 (2) Allow the placement of contiguous temporary erosion control structures
39 from one shoreline boundary of a property to the other shoreline boundary,
40 regardless of proximity to an imminently threatened structure.
- 41 (3) The termination date of all permits for contiguous temporary erosion control
42 structures on the same property shall be the same and shall be the latest
43 termination date for any of the permits.
- 44 (4) The replacement, repair, or modification of damaged temporary erosion
45 control structures that are either legally placed with a current permit or
46 legally placed with an expired permit, but the status of the permit is being
47 litigated by the property owner.

48 **SECTION 14.6.(q)** The Coastal Resources Commission shall adopt temporary
49 rules to implement subsection (p) of this section no later than December 31, 2015. The
50 Commission shall also adopt permanent rules to implement this section.

1 **SECTION 14.6.(r)** Subsections (a) through (i) of G.S. 75A-5.3, as enacted by
2 subsection (i) of this section, become effective January 1, 2016.

3 4 **USE OF OYSTER SHELLS PROHIBITED IN COMMERCIAL LANDSCAPING**

5 **SECTION 14.7.(a)** Article 20 of Chapter 113 of the General Statutes is amended
6 by adding a new section to read:

7 **"§ 113-270. Use of oyster shells by landscape contractors prohibited.**

8 (a) No landscape contractor shall use oyster shells as a ground cover.

9 (b) Enforcement of the prohibition set forth in this section shall be under the
10 jurisdiction of the Marine Fisheries Commission.

11 (c) For purposes of this section, landscape contractor shall have the definition set forth
12 in G.S. 89D-11."

13 **SECTION 14.7.(b)** This section is effective October 1, 2015.

14 15 **CORE SOUND OYSTER LEASING**

16 **SECTION 14.8.** The Division of Marine Fisheries of the Department of
17 Environment and Natural Resources shall, in consultation with representatives of the
18 commercial fishing industry, representatives of the shellfish aquaculture industry, and relevant
19 federal agencies, create a proposal to open to shellfish cultivation leasing certain areas of Core
20 Sound that are currently subject to a moratorium on shellfish leasing. The Division shall submit
21 a report regarding the plan no later than April 1, 2016, to the Joint Legislative Commission on
22 Governmental Operations.

23 24 **AMEND SENATOR JEAN PRESTON MARINE SHELLFISH SANCTUARY** 25 **LEGISLATION**

26 **SECTION 14.9.** Section 44 of S.L. 2014-120 reads as rewritten:

27 **"SENATOR JEAN PRESTON MARINE SHELLFISH—OYSTER SANCTUARY**
28 **PROGRAM**

29 "**SECTION 44.(a)** It is the intent of the General Assembly ~~to establish a marine shellfish~~
30 ~~sanctuary in the Pamlico Sound to be named in honor of former Senator Jean Preston, to be~~
31 ~~called the "Senator Jean Preston Marine Shellfish Sanctuary."~~to enhance shellfish habitats
32 within the Albemarle and Pamlico Sounds and their tributaries to benefit fisheries, water
33 quality, and the economy. This will be achieved through the establishment of a network of
34 oyster sanctuaries, harvestable enhancement sites, and coordinated support for the development
35 of shellfish aquaculture. The network of oyster sanctuaries is to be named in honor of
36 Senator Jean Preston and shall be called the "Senator Jean Preston Oyster Sanctuary
37 Network".

38 "**SECTION 44.(b)** The Division of Marine Fisheries of the Department of Environment
39 and Natural Resources shall ~~designate an area of appropriate acreage within the Pamlico Sound~~
40 ~~as a recommendation to the Environmental Review Commission for establishment of the~~
41 ~~"Senator Jean Preston Marine Shellfish Sanctuary" and create a plan for managing the~~
42 ~~sanctuary that includes~~develop a plan to construct and manage additional oyster habitats. The
43 new sanctuaries, along with selected existing oyster sanctuaries, shall be included in the
44 Senator Jean Preston Oyster Sanctuary Network. The plan shall include the following
45 components:

- 46 (1) Location and delineation of ~~the sanctuary.~~oyster sanctuaries. ~~— The plan~~
47 ~~should include a location~~locations for the sanctuarysanctuary network
48 components that minimizes minimize the impact on commercial trawling. In
49 addition, the sanctuary should be gridded into areas leased to private parties
50 for restoration and harvest and areas operated and maintained by the State
51 for restoration that are not open for harvest. The leased and unleased areas

1 ~~should be arranged in a pattern where leased squares are surrounded on four~~
2 ~~sides by unleased squares.~~ The location of sanctuaries shall take into account
3 connectivity to existing oyster sanctuaries and proposed oyster enhancement
4 sites. New oyster sanctuaries shall be designed to provide hook-and-line
5 fishing while allowing the development of complex fish habitats and
6 brood-stock oysters that will enhance recruitment in the surrounding reefs.
7 The plan should outline a 10-year development project to accomplish the
8 expansion.

9 (2) ~~Administration. — The plan should include the prices to be charged for the~~
10 ~~leased portions of the sanctuary, including an administration fee to be~~
11 ~~retained by the Division to support the leasing and monitoring program. The~~
12 ~~plan shall also provide that the balance of lease payments collected by the~~
13 ~~Division be transferred to the General Fund with a recommendation that~~
14 ~~some or all of the proceeds be used for the support of the State's special~~
15 ~~education programs in memory of Senator Jean Preston.~~

16 (3) Enhancement of oyster habitat restoration. — The General Assembly finds
17 that the lack of a reliable State-based supply of oyster seed and inadequate
18 funding for cultch planting are limitations to the expansion of oyster
19 harvesting and the restoration of wild oyster habitat in North Carolina.
20 Therefore, the plan should include the following:

21 a. Provisions and recommendations to facilitate the availability of
22 oyster seed produced in North Carolina for wild oyster habitat
23 restoration projects as well as oyster aquaculture and to reduce
24 potential negative impacts from importation of non-native oyster
25 seed.

26 b. Plans, where feasible, for public-private partnerships for State-based
27 production of viable oyster seed through the creation of one or more
28 production hatcheries and recommendations for increased support of
29 the existing research hatchery at UNC-Wilmington.

30 c. Plans and cost estimates for an expansion of cultch planting in
31 suitable areas of the State's coastal waters in order to expand areas
32 suitable for development of wild oyster habitat.

33 (4) Economic relief. — The plan should consider a waiver of application fees and
34 yearly rental fees for new shellfish leases for an established period of time to
35 further promote and support shellfish aquaculture in North Carolina. The
36 new leasing fee waiver program should include measures to discourage
37 speculation and target persons with a genuine interest in starting a shellfish
38 aquaculture business, such as a requirement that the lease be nontransferable
39 for a five-year period.

40 (5) Outreach. — The plan should include outreach and education that promotes,
41 whenever possible, public-private partnerships utilizing the Sea Grant
42 College Program, local colleges, and other nongovernmental organizations
43 to (i) encourage shellfish aquaculture and provide technical assistance to
44 broaden cost-effective technologies available to leaseholders; (ii) encourage
45 best management practices to leaseholders; and (iii) inform fishermen and
46 the public on the benefits provided by the Senator Jean Preston Oyster
47 Sanctuary Network.

48 (6) Monitoring. — The plan should include a monitoring plan designed to (i)
49 determine the success of oyster reef construction and (ii) evaluate the cost
50 benefit of the oyster sanctuary network and harvestable enhancement sites.

1 ~~(3)~~(7) Funding. – The plan should include a request for appropriations sufficient to
 2 provide funds for the construction of appropriate bottom habitat and shellfish
 3 seeding and for Division staff necessary to conduct oyster restoration and
 4 monitoring activities. The plan should provide that, whenever possible,
 5 construction and shellfish seeding be carried out by contract with private
 6 entities for Division staff to expand oyster restoration and monitoring
 7 activities for 10 years. The plan should provide that, whenever possible,
 8 public-private partnerships are employed to meet the construction, seeding,
 9 and outreach requirements of the plan.

10 ~~(4)~~ Commercial fisherman relief. — To promote the diversification of
 11 commercial fishing opportunities, the plan should include a program to
 12 award free or discounted leases under this section to commercial fishermen
 13 who (i) have held one or more commercial fishing licenses continually for a
 14 period of 10 or more years and (ii) receive at least fifty percent (50%) of
 15 their income from commercial fishing with those licenses.

16 ~~(5)~~(8) Recommendations. – The plan ~~should~~ shall include recommendations for
 17 statutory or regulatory changes needed to expedite the expansion of shellfish
 18 restoration and harvesting in order to improve water quality, restore
 19 ecological habitats, provide enhanced recreational and commercial fishing
 20 opportunities, and expand the coastal economy.

21 (9) No funding for sanctuaries in closed areas. – The plan shall provide that no
 22 funding or other resources shall be available in water bodies where a
 23 moratorium or other legal prohibition on shellfish leasing under Article 16 of
 24 Chapter 113 of the General Statutes is currently in effect. This subdivision
 25 does not apply to leasing moratoria imposed because the area is closed to
 26 shellfish harvesting or recommended for closure by the State Health Director
 27 due to pollution.

28 "**SECTION 44.(c)** No later than ~~December 1, 2014~~, and quarterly thereafter until
 29 ~~submission of a final plan to the Environmental Review Commission, March 1, 2016~~, the
 30 Department of Environment and Natural Resources shall report to the ~~Environmental Review~~
 31 ~~Commission~~ Chairs of the House of Representatives Appropriations Committee on Agriculture
 32 and Natural and Economic Resources, the Senate Appropriations Committee on Natural and
 33 Economic Resources, and the Fiscal Research Division regarding its implementation of this
 34 section and its recommended plan."
 35

36 SHELLFISH CULTIVATION LEASING REFORM

37 **SECTION 14.10.(a)** G.S. 113-202(i) reads as rewritten:

38 "**§ 113-202. New and renewal leases for shellfish cultivation; termination of leases issued**
 39 **prior to January 1, 1966.**

40 ...

41 (i) After a lease application is approved by the Secretary, the applicant shall submit to
 42 the Secretary ~~a survey of the area approved for leasing and information sufficient to~~ define the
 43 bounds of the area approved for leasing with markers in accordance with the rules of the
 44 Commission. ~~The survey information shall conform to standards prescribed by the Secretary~~
 45 concerning accuracy of survey and the amount of detail to be shown. ~~When an acceptable~~
 46 ~~survey information~~ is submitted, the boundaries are marked and all fees and rents due in
 47 advance are paid, the Secretary shall execute the lease on forms approved by the Attorney
 48 General. The Secretary is authorized, with the approval of the lessee, to amend an existing lease
 49 by reducing the area under lease or by combining contiguous leases without increasing the total
 50 area leased. The information required by this subsection may be based on coordinate
 51 information produced using a device equipped to receive global positioning system data."

1 **SECTION 14.10.(b)** G.S. 113-202(j) reads as rewritten:

2 "(j) Initial leases begin upon the issuance of the lease by the Secretary and expire at
3 noon on the first day of July following the ~~fifth-tenth~~ anniversary of the granting of the lease.
4 Renewal leases are issued for a period of ~~five~~10 years from the time of expiration of the
5 previous lease. At the time of making application for renewal of a lease, the applicant must pay
6 a filing fee of one hundred dollars (\$100.00). The rental for initial leases is one dollar (\$1.00)
7 per acre ~~for all leases entered into before July 1, 1965, and for all other leases~~ until noon on the
8 first day of July following the first anniversary of the lease. Thereafter, for initial ~~leases entered~~
9 ~~into after July 1, 1965,~~leases and from the beginning for renewals of leases entered into after
10 that date, the rental is ten dollars (\$10.00) per acre per year. Rental must be paid annually in
11 advance prior to the first day of April each year. Upon initial granting of a lease, the pro rata
12 amount for the portion of the year left until the first day of July must be paid in advance at the
13 rate of one dollar (\$1.00) per acre per year; then, on or before the first day of April next, the
14 lessee must pay the rental for the next full year."

15 **SECTION 14.10.(c)** This section applies to shellfish lease applications received by
16 the Department of Environment and Natural Resources on or after the date this act becomes
17 law.

18 **SIMPLIFY OYSTER RESTORATION PROJECT PERMITTING**

19 **SECTION 14.10A.(a)** The Division of Marine Fisheries and Division of Coastal
20 Management of the Department of Environment and Natural Resources shall, in consultation
21 with representatives of nongovernmental conservation organizations working on oyster
22 restoration, create a new permitting process specifically designed for oyster restoration projects
23 that apply to oyster restoration projects instead of a major development permit under
24 G.S. 113A-118. The Department shall submit its report, including recommended legislation, to
25 the Environmental Review Commission no later than May 1, 2016.

26 **SECTION 14.10A.(b)** Until the effective date of the revised permanent rule that
27 the Coastal Resources Commission is required to adopt pursuant to subsection (d) of this
28 section, the Commission and the Department of Environment and Natural Resources shall
29 implement 15A NCAC 03O .0503(g) (Scientific or Educational Activity Permit) as provided in
30 subsection (c) of this section.

31 **SECTION 14.10A.(c)** Notwithstanding 15A NCAC 03O .0503(g) (Scientific or
32 Educational Activity Permit), the Division of Marine Fisheries may issue a scientific or
33 educational activity permit for approved activities conducted by or under the direction of a
34 nongovernmental conservation organization in addition to a scientific or educational institution.
35 For purposes of this section, a nongovernmental conservation organization is defined as an
36 organization whose primary mission is the conservation of natural resources.

37 **SECTION 14.10A.(d)** The Environmental Management Commission shall adopt
38 rules to amend 15A NCAC 03O .0503(g) and any other cross-referenced rules consistent with
39 subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the
40 Commission pursuant to this subsection shall be substantively identical to the provisions of
41 subsection (c) of this section. Rules adopted pursuant to this subsection are not subject to Part 3
42 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this
43 subsection shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more
44 written objections had been received as provided by G.S. 150B-21.3(b2).

45 **SECTION 14.10A.(e)** This section is effective when this act becomes law.
46 Subsection (c) of this section expires on the date that rules adopted pursuant to subsection (d)
47 of this section become effective.
48

49 **SCFL EXEMPTION FOR EMPLOYEES OF LEASEHOLDER**

50 **SECTION 14.10B.** G.S. 113-169.2 reads as rewritten:
51

"§ 113-169.2. Shellfish license for North Carolina residents without a SCFL.

(a) License or Endorsement Necessary to Take or Sell Shellfish Taken by Hand Methods. – It is unlawful for an individual to take shellfish from the public or private grounds of the State as part of a commercial fishing operation by hand methods without holding either a shellfish license or a shellfish endorsement of a SCFL. A North Carolina resident who seeks only to take shellfish by hand methods and sell such shellfish shall be eligible to obtain a shellfish license without holding a SCFL. The shellfish license authorizes the licensee to sell shellfish.

(a1) License Necessary to Take or Sell Shellfish Taken by Mechanical Means. – ~~Subject to~~ ~~Except as provided in~~ subsection (i) of this section, an individual who takes shellfish from the public or private grounds of the State by mechanical means must obtain an SCFL under the provisions of G.S. 113-168.2.

...
(i) Taking Shellfish Without a License for Personal Use. ~~Use or as Employee of Certain License Holders.~~ – Shellfish may be taken without a license ~~for~~ under the following circumstances:

- (1) For personal use in quantities established by rules of the Marine Fisheries Commission.
- (2) When the taking is from an area leased for the cultivation of shellfish under Article 16 of this Chapter by a person who is an employee of a leaseholder holding a valid SCFL issued under the provisions of G.S. 113-168.2."

WATER COLUMN LEASING CLARIFICATION

SECTION 14.10C.(a) G.S. 113-201.1(5) reads as rewritten:

"(5) "Water column" means the vertical extent of water, including the surface ~~thereof,~~ above a designated area of submerged bottom land."

SECTION 14.10C.(b) G.S. 113-202 is amended by adding a new subsection to read:

"(r) A lease under this section shall include the right to place devices or equipment related to the cultivation or harvesting of marine resources on or within 18 inches of the leased bottom. Devices or equipment not resting on the bottom or extending more than 18 inches above the bottom will require a water column lease under G.S. 113-202.1."

SECTION 14.10C.(c) G.S. 113-202.1 reads as rewritten:

"§ 113-202.1. Water column leases for aquaculture.

...
(c) The Secretary shall not amend shellfish cultivation leases to authorize ~~use~~ uses of the water column involving devices or equipment not resting on the bottom or that extend more than 18 inches above the bottom unless:

- (1) The leaseholder submits an application, accompanied by a nonrefundable application fee of one hundred dollars (\$100.00), which conforms to the standards for lease applications in G.S. 113-202(d) and the duly adopted rules of the Commission;
- (2) The proposed amendment has been noticed consistent with G.S. 113-202(f);
- (3) Public hearings have been conducted consistent with G.S. 113-202(g);
- (4) The aspects of the proposals which require use and dedication of the water column have been documented and are recognized by the Secretary as commercially feasible forms of aquaculture which will enhance shellfish production on the leased area;
- (5) It is not feasible to undertake the aquaculture activity outside of coastal fishing waters; and

- 1 (6) The authorized water column use has the least disruptive effect on other
2 public trust uses of the waters of any available technology to produce the
3 shellfish identified in the proposal.

4"

5 6 **BLUE RIBBON OYSTER STUDY**

7 **SECTION 14.10D.** The Joint Legislative Oversight Committee on Natural and
8 Economic Resources created by this act shall convene a stakeholder working group to study
9 and advance efforts to ecologically restore the resource and achieve economic stability of the
10 shellfish aquaculture industry, including (i) how best to spend financial resources to counter
11 declining oyster populations and habitats; (ii) the use of nonnative oyster species to accomplish
12 oyster restoration; (iii) means of combating oyster disease and managing harvesting practices to
13 balance the needs of the industry and promote long-term viability and health of oyster habitat
14 and substrate; (iv) economic aquaculture methods to improve oyster stock and populations; (v)
15 long-term, dedicated options for funding sources and water quality improvements; (vi) means
16 to increase oyster production for both population growth and harvest; (vii) options that expand
17 the use of private hatchery capacity in the State; (viii) options for promoting the use of cultch
18 planting to enhance and increase oyster habitat and population; (ix) other resources that might
19 be leveraged to enhance reform efforts; and (x) any other issue the Committee deems relevant.
20 In the conduct of this study, the Committee may consult with representatives of the North
21 Carolina Division of Marine Fisheries, the Marine Fisheries Commission, nature conservation
22 entities, and commercial and recreational oyster harvesting industries and with experts in the
23 fields of marine biology and marine ecology. The Department of Environment and Natural
24 Resources shall provide any information and personnel requested by the Committee in the
25 conduct of this study.

26 27 **FISHERY MANAGEMENT PLAN PROCEDURES**

28 **SECTION 14.10E.(a)** The Marine Fisheries Commission shall study its procedures
29 for adoption of temporary supplemental management measures to the State's fishery
30 management plans. The study shall include a review of the opportunities provided in the
31 process for public input and comment from commercial and recreational fishing interests, local
32 governments, environmental and conservation nonprofits, and other stakeholders, and an
33 assessment of whether economic impact of a proposed measure is adequately addressed in the
34 formulation, approval, and implementation of temporary supplemental management measures.
35 The Commission shall report no later than April 1, 2016, to the chairs of the Senate Natural and
36 Economic Resources Committee, the chairs of the House Agriculture and Natural and
37 Economic Resources Committee, and the Fiscal Research Division.

38 **SECTION 14.10E.(b)** The Marine Fisheries Commission shall not adopt any
39 temporary supplemental management measures to the State's fishery management plans until
40 the study required by this section has been submitted or July 1, 2016, whichever occurs later.

41 42 **DIVISION OF MARINE FISHERIES/NO JOINT ENFORCEMENT AGREEMENTS**

43 **SECTION 14.10F.(a)** G.S. 113-224 reads as rewritten:

44 **"§ 113-224. Cooperative agreements by Department.**

45 (a) ~~The~~ Except as otherwise provided in this section, the Department is empowered to
46 enter into cooperative agreements with public and private agencies and individuals respecting
47 the matters governed in this Subchapter. Pursuant to such agreements the Department may
48 expend funds, assign employees to additional duties within or without the State, assume
49 additional responsibilities, and take other actions that may be required by virtue of such
50 agreements, in the overall best interests of the conservation of marine and estuarine resources.

1 (b) The Fisheries Director or a designee of the Fisheries Director may not enter into an
2 agreement with the National Marine Fisheries Service of the United States Department of
3 Commerce allowing Division of Marine Fisheries inspectors to accept delegation of law
4 enforcement powers over matters within the jurisdiction of the National Marine Fisheries
5 Service."

6 **SECTION 14.10F.(b)** G.S. 128-1.1(c2) is repealed.

7 8 **COMMERCIAL FISHING FOR-HIRE LOGBOOK**

9 **SECTION 14.10G.(a)** G.S. 113-174.3(e), as enacted by subsection 14.8(o) of S.L.
10 2013-360, reads as rewritten:

11 "(e) Each individual who obtains a for-hire license ~~shall~~ may submit to the Division
12 logbooks summarizing catch and effort statistical data to the Division. The Commission may
13 adopt rules that determine the means and methods to satisfy the requirements of this
14 subsection."

15 **SECTION 14.10G.(b)** Section 14.8(ab) of S.L. 2013-360 reads as rewritten:

16 "**SECTION 14.8.(ab)** ~~This G.S. 113-174.3(e), as enacted by subsection 14.8(o) of this~~
17 ~~section, becomes effective January 1, 2016. The remainder of this section becomes effective~~
18 ~~August 1, 2013.~~"

19 **SECTION 14.10G.(c)** Prior to any further implementation of subsection 14.8(o) of
20 S.L. 2013-360, the Division of Marine Fisheries shall conduct a 12-month implementation
21 process to include seeking input from stakeholders with regard to the requirement and public
22 workshops to provide education for persons subject to the requirement. The process shall also
23 include the establishment of a stakeholder advisory group that includes persons who are
24 for-hire license holders representing all major recreational fishing areas on the North Carolina
25 coast. The Division shall review and provide a written response to any issues raised by the
26 advisory group and shall report to the Environmental Review Commission no later than
27 January 15, 2016, regarding the implementation process required by this section.

28 29 **DISCLOSURE OF PERSONAL IDENTIFYING INFORMATION**

30 **SECTION 14.10H.(a)** G.S. 143-254.5 reads as rewritten:

31 "**§ 143-254.5. Disclosure of personal identifying information.**

32 Social security numbers and identifying information obtained by the Commission shall be
33 treated as provided in G.S. 132-1.10. For purposes of this section, "identifying information"
34 also includes a person's mailing address, residence address, e-mail address, date of birth, and
35 telephone number."

36 **SECTION 14.10H.(b)** G.S. 143B-289.52(h) reads as rewritten:

37 "(h) Social security numbers and identifying information obtained by the Commission or
38 the Division of Marine Fisheries shall be treated as provided in G.S. 132-1.10. For purposes of
39 this subsection, "identifying information" also includes a person's mailing address, residence
40 address, e-mail address, date of birth, and telephone number."

41 42 **BEACH EROSION STUDY**

43 **SECTION 14.10I.(a)** The Division of Coastal Management shall study and
44 develop a proposed strategy for preventing, mitigating, and remediating the effects of beach
45 erosion. The study shall consider efforts by other states and countries to prevent beach erosion
46 and ocean overwash and to renourish and sustain beaches and coastlines and incorporate best
47 practices into the strategy.

48 **SECTION 14.10I.(b)** By February 15, 2016, the Division of Coastal Management
49 shall report to the Environmental Review Commission, the chairs of the Senate Appropriations
50 Committee on Natural and Economic Resources and the House Appropriations Committee on
51 Agriculture, Natural, and Economic Resources, and the Fiscal Research Division on the results

1 of the study and its proposed strategy as required by subsection (a) of this section, including
2 any legislative recommendations.
3

4 **DYNAMIC PRICING FOR STATE PARKS AND ATTRACTIONS**

5 **SECTION 14.11.(a)** G.S. 150B-1(d) reads as rewritten:

6 **"§ 150B-1. Policy and scope.**

7 ...
8 (d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the
9 following:

10 ...
11 (26) The Board of Agriculture in the Department of Agriculture and Consumer
12 Services with respect to ~~annual~~ the following:

13 a. Annual admission fees for the State Fair.

14 b. Operating hours, admission fees, or related activity fees at State
15 forests.

16 The Board shall annually post the admission fee and operating hours
17 schedule on its Web site and provide notice of the ~~fee~~ schedule, along with a
18 citation to this section, to all persons named on the mailing list maintained
19 pursuant to G.S. 150B-21.2(d).

20 (27) The Department of Environment and Natural Resources with respect to
21 operating hours, admission fees, or related activity fees at:

22 a. The North Carolina Zoological Park pursuant to G.S. 143B-335.

23 b. State parks pursuant to G.S. 113-35.

24 c. The North Carolina Aquariums pursuant to G.S. 143B-289.44.

25 d. The North Carolina Museum of Natural Sciences.

26 The exclusion from rule making for the setting of operating hours set forth in
27 this subdivision shall not apply to a decision to eliminate all public operating
28 hours for the sites and facilities listed."

29 **SECTION 14.11.(b)** The Department of Environment and Natural Resources, or
30 any other department given responsibilities for the North Carolina Zoological Park, State parks,
31 the North Carolina Museum of Natural Sciences, and the North Carolina Aquariums, may
32 establish admission fees and related activity fees. In setting these fees, the Department of
33 Environment and Natural Resources shall use a dynamic pricing strategy as defined in
34 subsection (e) of this section. Any rule currently in the Administrative Code related to fees
35 covered by subsection (a) of this section is ineffective and repealed upon the effective date of
36 new admission fees and related activity fees adopted by the Department under the authority set
37 out in that subsection. Notice of the initial adoption of new admission fees and related activity
38 fees under subsection (a) of this section shall be given by the Department to the Codifier of
39 Rules, who, upon receipt of notice of the initial adoption of new admission fees and related
40 activity fees by the Department, shall note the repeal of these rules in the Administrative Code.

41 **SECTION 14.11.(c)** The Department of Cultural Resources may establish
42 admission fees and related activity fees authorized by G.S. 121-7.3 for historic sites and
43 museums. In setting these fees, the Department shall use a dynamic pricing strategy as defined
44 in subsection (e) of this section.

45 **SECTION 14.11.(d)** The Department of Agriculture and Consumer Services may
46 establish admission fees and related activity fees authorized by G.S. 106-877 for State forests.
47 In setting these fees, the Department shall use a dynamic pricing strategy as defined in
48 subsection (e) of this section.

49 **SECTION 14.11.(e)** For purposes of this section, "dynamic pricing" is the
50 adjustment of fees for admission and related activities from time to time to reflect market
51 forces, including seasonal variations and special event interests, with the intent and effect to

1 maximize revenues from use of these State resources to the extent practicable to offset
2 appropriations from the General Assembly.

3 **SECTION 14.11.(f)** No later than March 1, 2016, the Department of Environment
4 and Natural Resources, the Department of Cultural Resources, and the Department of
5 Agriculture and Consumer Services shall submit a report on implementation of the new pricing
6 strategy to the Environmental Review Commission, including an evaluation of the feasibility
7 and obstacles to charging new entrance or admission fees at other attractions not subject to this
8 section.

9 **SECTION 14.11.(g)** This part applies to admission fees or related activity fees
10 charged on or after the effective date of this act.

11 **WATER INFRASTRUCTURE AUTHORITY REVISIONS**

12 **SECTION 14.13.(a)** G.S. 159G-20(1) is recodified as G.S. 159G-20(1a), and
13 G.S. 159G-20(1a) is recodified as G.S. 159G-20(1c).

14 **SECTION 14.13.(b)** G.S. 159G-20, as amended by subsection (a) of this section,
15 reads as rewritten:

16 **"§ 159G-20. Definitions.**

17 The following definitions apply in this Chapter:

18 (1) Affordability. – The relative affordability of a project for a community
19 compared to other communities in North Carolina based on factors that shall
20 include, at a minimum, water and sewer service rates, median household
21 income, poverty rates, employment rates, the population of the served
22 community, and past expenditures by the community on water infrastructure
23 compared to that community's capacity for financing of water infrastructure
24 improvements.

25 (1a) Asset management plan. – The strategic and systematic application of
26 management practices applied to the infrastructure assets of a local
27 government unit in order to minimize the total costs of acquiring, operating,
28 maintaining, improving, and replacing the assets while at the same time
29 maximizing the efficiency, reliability, and value of the assets.

30 (1b) Authority. – The State Water Infrastructure Authority created and
31 established pursuant to Article 5 of this Chapter.

32 ...

33 (9) ~~High unit cost project.~~ – ~~A project that results in an estimated average~~
34 ~~household user fee for water and sewer service in the area served by the~~
35 ~~project in excess of the high unit cost threshold. The average household user~~
36 ~~fee is calculated for a continuous 12-month period.~~

37 (10) ~~High unit cost threshold.~~ – ~~Either of the following amounts determined on~~
38 ~~the basis of data from the most recent federal decennial census and updated~~
39 ~~by the U.S. Department of Housing and Urban Development's annual~~
40 ~~estimated income adjustment factors:~~

41 a. ~~One and one-half percent (1.5%) of the median household income in~~
42 ~~an area that receives both water and sewer service.~~

43 b. ~~Three-fourths of one percent (3/4%) of the median household income~~
44 ~~in an area that receives only water service or only sewer service.~~

45 ...

46 (13) Local government unit. – Any of the following:

47 a. A city as defined in G.S. 160A-1.

48 b. A county.

49 c. A consolidated city-county as defined in G.S. 160B-2.

- 1 d. A county water and sewer district created pursuant to Article 6 of
2 Chapter 162A of the General Statutes.
- 3 e. A metropolitan sewerage district or a metropolitan water district
4 created pursuant to Article 4 of Chapter 162A of the General
5 Statutes.
- 6 f. A water and sewer authority created under Article 1 of Chapter 162A
7 of the General Statutes.
- 8 g. A sanitary district created pursuant to Part 2 of Article 2 of Chapter
9 130A of the General Statutes.
- 10 h. A joint agency created pursuant to Part 1 of Article 20 of Chapter
11 160A of the General Statutes.
- 12 i. A joint agency that was created by agreement between two cities and
13 towns to operate an airport pursuant to G.S. 63-56 and that provided
14 drinking water and wastewater services off the airport premises
15 before 1 January 1995.

16 (13a) Merger. – The consolidation of two or more water and/or sewer systems into
17 one system with common ownership, management, and operation.

18 (14) Nonprofit water corporation. – A nonprofit corporation that is incorporated
19 under Chapter 55A of the General Statutes solely for the purpose of
20 providing drinking water or wastewater services and is an eligible applicant
21 for a federal loan or grant from the Rural Utility Services Division, U.S.
22 Department of Agriculture.

23 (15) Public water system. – Defined in G.S. 130A-313.

24 (16) Regionalization. – The physical interconnecting of an eligible entity's
25 wastewater system to another entity's wastewater system for the purposes of
26 providing regional treatment or the physical interconnecting of an eligible
27 entity's public water system to another entity's water system for the purposes
28 of providing regional water supply.

29 ...

30 (21) Targeted interest rate project. – Either of the following types of projects:

- 31 a. ~~A high unit cost project that is awarded a loan.~~ A project that is
32 awarded a loan from the Drinking Water Reserve or the Wastewater
33 Reserve based on affordability.
- 34 b. A project that is awarded a loan from the CWSRF or the DWSRF
35 and is in a category for which federal law encourages a special focus.

36"

37 **SECTION 14.13.(c)** G.S. 159G-23 reads as rewritten:

38 "**§ 159G-23. ~~Common criteria~~Priority consideration for loan or grant from Wastewater**
39 **Reserve or Drinking Water Reserve.**

40 The ~~criteria~~ considerations for priority in this section apply to a loan or grant from the
41 Wastewater Reserve or the Drinking Water Reserve. The Division of Water Infrastructure must
42 ~~establish a system of assigning points to applications based on the following criteria:~~ consider
43 the following items when evaluating applications:

- 44 (1) Public necessity. – ~~An applicant must explain how the project~~ A project that
45 promotes public health and protects the environment. ~~A project~~ A project
46 that ~~the~~ environment, improves a system that is not in compliance with permit
47 requirements or is under orders from the Department, enables a moratorium
48 to be lifted, or replaces failing septic tanks with a wastewater collection
49 ~~system has priority.~~ system.
- 50 (2) Effect on impaired waters. – A project that improves designated impaired
51 waters of the ~~State~~ State.

- 1 (3) Efficiency. – A project that achieves efficiencies in meeting the State's water
2 infrastructure needs or reduces vulnerability to drought consistent with Part
3 2A of Article 21 and Article 38 of Chapter 143 of the General Statutes by
4 one of the following ~~methods has priority:~~methods:
5 a. The combination of two or more wastewater or public water systems
6 into a regional wastewater or public water system by merger,
7 consolidation, or another means.
8 b. Conservation or reuse of water, including bulk water reuse facilities
9 and waterlines to supply reuse water for irrigation and other
10 approved uses.
11 c. Construction of an interconnection between water systems intended
12 for use in drought or other water shortage emergency.
13 d. Repair or replacement of leaking waterlines to improve water
14 conservation and efficiency or to prevent contamination.
15 e. Replacement of meters and installation of new metering systems.
16 (4) Comprehensive land-use plan. – A project that is located in a city or county
17 that has adopted or has taken significant steps to adopt a comprehensive
18 land-use plan under Article 18 of Chapter 153A of the General Statutes or
19 Article 19 of Chapter 160A of the General Statutes ~~has priority over a~~
20 ~~project located in a city or county that has not adopted a plan or has not~~
21 ~~taken steps to do so.~~Statutes. The existence of a plan has more priority than
22 steps taken to adopt a plan, such as adoption of a zoning ordinance. A plan
23 that exceeds the minimum State standards for protection of water resources
24 has ~~more~~higher priority than one that does not. A project is considered to be
25 located in a city or county if it is located in whole or in part in that unit. A
26 land-use plan is not considered a comprehensive land-use plan unless it has
27 provisions that protect existing water uses and ensure compliance with water
28 quality standards and classifications in all waters of the State affected by the
29 plan.
30 (5) Flood hazard ordinance. – A project that is located in a city or county that
31 has adopted a flood hazard prevention ordinance under ~~G.S. 143-215.54A~~
32 ~~has priority over a project located in a city or county that has not adopted an~~
33 ~~ordinance.~~G.S. 143-215.54A. A plan that exceeds the minimum standards
34 under G.S. 143-215.54A for a flood hazard prevention ordinance has ~~more~~
35 higher priority than one that does not. A project is considered to be located
36 in a city or county if it is located in whole or in part in that unit. If no part of
37 the service area of a project is located within the 100-year floodplain, the
38 project has ~~the same priority~~equal consideration under this subdivision as if
39 it were located in a city or county that has adopted a flood hazard prevention
40 ordinance. The most recent maps prepared pursuant to the National Flood
41 Insurance Program or approved by the Department determine whether an
42 area is within the 100-year floodplain.
43 (6) Sound management. – A project submitted by a local government unit that
44 has demonstrated a willingness and ability to meet its responsibilities
45 through sound fiscal policies and efficient operation and ~~management has~~
46 ~~priority.~~management.
47 (6a) Asset management plan. – A project submitted by a local government unit
48 with more than 1,000 service connections that has developed and is
49 implementing an asset management ~~plan has priority over a project~~
50 ~~submitted by a local government unit with more than 1,000 service~~

- 1 ~~connections that has not developed or is not implementing an asset~~
 2 ~~management plan.~~
- 3 (7) Capital improvement plan. – A project that implements the applicant's
 4 capital improvement plan for the wastewater system or public water system
 5 ~~it manages has priority over a project that does not implement a capital~~
 6 ~~improvement plan. To receive priority, a~~manages, so long as the capital
 7 improvement plan ~~must set~~sets out the applicant's expected water
 8 infrastructure needs for at least 10 years.
- 9 (8) Coastal habitat protection. – A project that implements a recommendation of
 10 a Coastal Habitat Protection Plan adopted by the Environmental
 11 Management Commission, the Coastal Resources Commission, and the
 12 Marine Fisheries Commission pursuant to ~~G.S. 143B-279.8~~ has priority over
 13 ~~other projects that affect counties subject to that Plan.~~G.S. 143B-279.8. If no
 14 part of the service area of a project is located within a county subject to that
 15 Plan, the project has equal priority under this subdivision with a project that
 16 receives priority under this subdivision.
- 17 (9) ~~High unit cost threshold. — A high unit cost project has priority over~~
 18 ~~projects that are not high unit cost projects. The priority given to a~~
 19 ~~high unit cost project shall be set using a sliding scale based on the amount~~
 20 ~~by which the applicant exceeds the high unit cost threshold.~~Affordability. —
 21 The relative affordability of a project for a community compared to other
 22 communities in North Carolina.
- 23 (10) Merger and Regionalization. – A project to provide for the planning of
 24 regional public water and wastewater systems, to provide for the orderly
 25 coordination of local actions relating to public water and wastewater
 26 systems, or to help realize economies of scale in regional public water and
 27 wastewater systems through consolidation, management, merger, or
 28 interconnection of public water and wastewater ~~systems~~has priority.systems.
 29 If an applicant demonstrates that it is not feasible for the project to include
 30 regionalization, the funding agency shall assign the project the same priority
 31 under this subdivision as a project that includes regionalization.
- 32 (11) State water supply plan. – A project that addresses a potential conflict
 33 between local plans or implements a measure in which local water supply
 34 plans could be better coordinated, as identified in the State water supply plan
 35 pursuant to ~~G.S. 143-355(m),~~ has priority.G.S. 143-355(m).
- 36 (12) Water conservation measures for drought. – A project that includes adoption
 37 of water conservation measures by a local government unit that are more
 38 stringent than the minimum water conservation measures required pursuant
 39 to ~~G.S. 143-355.2~~ has priority.G.S. 143-355.2.
- 40 (13) Low-income residents. – A project that is located in an area annexed by a
 41 municipality under Article 4A of Chapter 160A of the General Statutes in
 42 order to provide water or sewer services to low-income ~~residents~~ has
 43 ~~priority. For purposes of this section, low-income residents are those with a~~
 44 ~~family income that is eighty percent (80%) or less of median family~~
 45 ~~income.~~residents."

46 **SECTION 14.13.(c1)** G.S. 159G-31 reads as rewritten:

47 **"§ 159G-31. Entities eligible to apply for loan or grant.**

48 (a) A local government unit or a nonprofit water corporation is eligible to apply for a
 49 loan or grant from the CWSRF, the DWSRF, the Wastewater Reserve, or the Drinking Water
 50 Reserve. An investor-owned drinking water corporation is also eligible to apply for a loan or
 51 grant from the DWSRF. Other entities are not eligible for a loan or grant from these accounts.

1 **(b)** Entities eligible in subsection (a) of this section for grants from the Wastewater
2 Reserve and the Drinking Water Reserve may be limited, based on affordability, to a portion of
3 the total construction costs for the project types defined in G.S. 159G-33(a)(2) and
4 G.S. 159G-34(a)(2).

5 **(c)** To the extent that funds are available, loans shall be considered for the portion of
6 construction costs not eligible for grant funding."

7 **SECTION 14.13.(d)** G.S. 159G-33(a)(4) is recodified as G.S. 159G-33(a)(5).

8 **SECTION 14.13.(e)** G.S. 159G-33(a), as amended by subsection (d) of this
9 section, reads as rewritten:

10 "(a) Types. – The Department is authorized to make the types of loans and grants listed
11 in this subsection from the Wastewater Reserve. Each type of loan or grant must be
12 administered through a separate account within the Wastewater Reserve.

13 (1) ~~General.—Loan.~~ Loan. – A loan ~~or grant~~ is available for a project authorized in
14 G.S. 159G-32(b).

15 (2) ~~High unit costProject grant.~~ Project grant. – A ~~high unit costproject~~ grant is available for a
16 ~~portion of the portion of the~~ construction costs of a wastewater collection
17 ~~system project or project,~~ a wastewater treatment works ~~project that results in~~
18 ~~an estimated average household user fee for water and sewer service in the~~
19 ~~area served by the project that exceeds the high unit cost threshold.project,~~
20 or a stormwater quality project as authorized in G.S. 159G-32(b).

21 (3) ~~Technical assistanceMerger/regionalization feasibility grant.~~ Merger/regionalization feasibility grant. – A ~~technical~~
22 ~~assistancemerger/regionalization feasibility~~ grant is available to determine
23 ~~the best way to correct the deficiencies in a wastewater collection system or~~
24 ~~wastewater treatment works that either is not in compliance with its permit~~
25 ~~limits or, as identified in the most recent inspection report by the Department~~
26 ~~under G.S. 143-215.3, is experiencing operational problems and is at risk of~~
27 ~~violating its permit limits.feasibility of consolidating the management of~~
28 multiple utilities into a single utility operation or to provide regional
29 treatment and the best way of carrying out the consolidation or
30 regionalization. The Department shall not make a loan or grant under this
31 subdivision for a merger or regionalization proposal that would result in a
32 new surface water transfer regulated under G.S. 143-215.22L.

33 (4) Asset inventory and assessment grant. – An asset inventory and assessment
34 grant is available to inventory the existing water and/or sewer system and
35 document the condition of the inventoried infrastructure.

36 (5) Emergency loan. – An emergency loan is available in the event the Secretary
37 certifies that a serious public health hazard related to the inadequacy of an
38 existing wastewater collection system or wastewater treatment works is
39 present or imminent in a community."

40 **SECTION 14.13.(f)** G.S. 159G-34(a)(4) is recodified as G.S. 159G-34(a)(5).

41 **SECTION 14.13.(g)** G.S. 159G-34(a), as amended by subsection (f) of this section,
42 reads as rewritten:

43 "(a) Types. – The Department is authorized to make the types of loans and grants listed
44 in this section from the Drinking Water Reserve. Each type of loan or grant must be
45 administered through a separate account within the Drinking Water Reserve.

46 (1) ~~General.—Loan.~~ Loan. – A loan ~~or grant~~ is available for a project for a public
47 water system.

48 (2) ~~High unit costProject grant.~~ Project grant. – A ~~project~~ grant is available for ~~the a~~ portion of
49 the construction costs of a public water system project ~~that results in an~~
50 ~~estimated average household user fee for water and sewer service in the area~~

1 served by the project that exceeds the high unit cost threshold as defined in
2 G.S. 159G-32(c).

- 3 (3) ~~Technical assistance~~Merger/regionalization feasibility grant. – A ~~technical~~
4 ~~assistance~~merger/regionalization grant is available to determine the best way
5 to correct the deficiencies in a public water system that does not comply
6 with State law or the rules adopted to implement that law.feasibility of
7 consolidating the management of multiple utilities into a single utility
8 operation or to provide regional water supply and the best way of carrying
9 out the consolidation or regionalization. The Department shall not make a
10 loan or grant under this subdivision for a merger or regionalization proposal
11 that would result in a new surface water transfer regulated under
12 G.S. 143-215.22L.
- 13 (4) Asset inventory and assessment grant. – An asset inventory and assessment
14 grant is available to inventory the existing water and/or sewer system and
15 document the condition of the inventoried infrastructure.
- 16 (5) Emergency loan. – An emergency loan is available to an applicant in the
17 event the Secretary certifies that either a serious public health hazard or a
18 drought emergency related to the water supply system is present or imminent
19 in a community."

20 **SECTION 14.13.(h)** G.S. 159G-35 reads as rewritten:

21 "**§ 159G-35. Criteria for loans and grants.**

22 (a) CWSRF and DWSRF. – Federal law determines the criteria for awarding a loan or
23 grant from the CWSRF or the DWSRF. An award of a loan or grant from one of these accounts
24 must meet the criteria set under federal law. The Department is directed to establish through
25 negotiation with the United States Environmental Protection Agency the criteria for evaluating
26 applications for loans and grants from the CWSRF and the DWSRF and the priority assigned to
27 the criteria. The Department must incorporate the negotiated criteria and priorities in the
28 Capitalization Grant Operating Agreement between the Department and the United States
29 Environmental Protection Agency. The criteria and priorities incorporated in the Agreement
30 apply to a loan or grant from the CWSRF or the DWSRF. ~~The common criteria~~priority
31 considerations in G.S. 159G-23 do not apply to a loan or grant from the CWSRF or the
32 DWSRF.

33 (b) Reserves. – ~~The common criteria~~priority considerations in G.S. 159G-23 apply to a
34 loan or grant from the Wastewater Reserve or the Drinking Water Reserve. The Department
35 may establish by rule other criteria that apply to a loan or grant from the Wastewater Reserve
36 or the Drinking Water Reserve."

37 **SECTION 14.13.(i)** G.S. 159G-36(c) reads as rewritten:

38 "(c) Reserve Recipient Limit. – The following limits apply to ~~a~~the loan or grant types
39 made from the Wastewater Reserve or the Drinking Water Reserve to the same local
40 government unit or nonprofit water corporation:

- 41 (1) The amount of loans awarded for a fiscal year may not exceed three million
42 dollars (\$3,000,000).
- 43 (2) The amount of loans awarded for three consecutive fiscal years for targeted
44 interest rate projects may not exceed three million dollars (\$3,000,000).
- 45 (3) The amount of ~~high unit cost~~project grants awarded for three consecutive
46 fiscal years may not exceed three million dollars (\$3,000,000).
- 47 (4) The amount of ~~technical assistance~~merger/regionalization feasibility grants
48 awarded for three consecutive fiscal years may not exceed fifty thousand
49 dollars (\$50,000).

1 (5) The amount of asset inventory and assessment grants awarded for three
2 consecutive fiscal years may not exceed one hundred fifty thousand dollars
3 (\$150,000)."

4 **SECTION 14.13.(j)** The Division of Water Infrastructure of the Department of
5 Environment and Natural Resources shall report to the Environmental Review Commission and
6 the Fiscal Research Division regarding its implementation of the relative affordability of
7 projects criteria for grants from the Wastewater Reserve or Drinking Water Reserve set forth in
8 G.S. 159G-23(9), as amended by subsection (c) of this section, within 30 days of the adoption
9 of the affordability criteria.

10 11 **WATER INFRASTRUCTURE STATE MATCH SURPLUS FUNDS**

12 **SECTION 14.14.** Notwithstanding G.S. 159G-22, funds appropriated in this act to
13 the Division of Water Infrastructure for the Clean Water State Revolving Fund and the
14 Drinking Water State Revolving Fund to provide State matching funds that are in excess of the
15 amount required to draw down the maximum amount of federal capitalization grant funds may
16 be used for State water and wastewater infrastructure grants awarded from the Wastewater
17 Reserve and the Drinking Water Reserve that benefit rural and economically distressed areas of
18 the State.

19 20 **ENCOURAGE INTERCONNECTION OF PUBLIC WATER SYSTEMS**

21 **SECTION 14.14A.(a)** G.S. 130A-317 is amended by adding a new subsection to
22 read:

23 "(g) The Department shall identify systems meeting all of the following criteria:

- 24 (1) As constructed or altered, the system appears capable of interconnectivity
25 with another system or systems located within the same river basin, as set
26 out in G.S. 143-215.22.
27 (2) The system appears to have adequate unallocated capacity to expand.
28 (3) Interconnectivity would promote public health, protect the environment, or
29 ensure compliance with established drinking water rules.

30 The Department shall notify the identified systems of the potential for interconnectivity in
31 the future. The systems so notified may discuss options for potential interconnectivity,
32 including joint operations, regionalization, or merger. The Local Government Commission
33 shall be copied on the notice from the Department and shall assist the systems with any
34 questions regarding liabilities of the systems and alterations to the operational structure of the
35 systems."

36 **SECTION 14.14A.(b)** The Commission for Public Health may adopt rules to
37 implement G.S. 130A-317, as amended by this section.

38 39 **DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES/CLOSE** 40 **CERTAIN SPECIAL FUNDS**

41 **SECTION 14.16.(a)** The Office of State Budget and Management, in conjunction
42 with the Office of the State Controller and the Department of Environment and Natural
43 Resources, shall transfer the unencumbered cash balances in the following funds as of June 30,
44 2015, to the Department's General Fund budget and then close each of these special funds:

- 45 (1) Mining Fees (Special Fund Code 24300-2745).
46 (2) Mining Interest (Special Fund Code 24300-2610).
47 (3) Storm Water Permits (Special Fund Code 24300-2750).
48 (4) UST Soil Permitting (Special Fund Code 24300-2391).

49 **SECTION 14.16.(b)** G.S. 74-54.1(b) reads as rewritten:

1 "~~(b) The Mining Account is established as a nonreverting account within the~~
2 ~~Department. Fees collected under this section shall be credited to the Mining Account-General~~
3 ~~Fund and shall be applied to the costs of administering this Article.~~"

4 **SECTION 14.16.(c)** G.S. 130A-309.17(i) is repealed.

5 **SECTION 14.16.(d)** G.S. 143-215.3A(a) reads as rewritten:

6 "(a) The Water and Air Quality Account is established as an account within the
7 Department. Revenue in the Account shall be applied to the costs of administering the
8 programs for which the fees were collected. Revenue credited to the Account pursuant to
9 G.S. 105-449.43, G.S. 105-449.125, and G.S. 105-449.136 shall be used to administer the air
10 quality program. Any funds credited to the Account from fees collected for laboratory facility
11 certifications under G.S. 143-215.3(a)(10) that are not expended at the end of each fiscal year
12 for the purposes for which these fees may be used under G.S. 143-215.3(a)(10) shall revert.
13 Any other funds credited to the Account that are not expended at the end of each fiscal year
14 shall not revert. Except for the following fees, all application fees and permit administration
15 fees collected by the State for permits issued under Articles 21, 21A, 21B, and 38 of this
16 Chapter shall be credited to the Account:

- 17 (1) Fees collected under Part 2 of Article 21A and credited to the Oil or Other
18 Hazardous Substances Pollution Protection Fund.
- 19 (2) Fees credited to the Title V Account.
- 20 (3) Repealed by Session Laws 2005-454, s. 7, effective January 1, 2006.
- 21 (4) Fees collected under G.S. 143-215.28A.
- 22 (5) Fees collected under G.S. 143-215.94C shall be credited to the Commercial
23 Leaking Petroleum Underground Storage Tank Cleanup Fund.
- 24 (6) Fees collected under G.S. 143-215.3D for the following permits and
25 certificates shall be credited to the General Fund for use by the Department
26 to administer the program for which the fees were collected:
 - 27 a. Stormwater permits and certificates of general permit coverage
28 authorized under G.S. 143-214.7.
 - 29 b. Permits to apply petroleum contaminated soil to land authorized
30 under G.S. 143-215.1."

31 **SECTION 14.16.(e)** The transfers in subsection (a) of this section are to offset
32 reductions in General Fund appropriations to the Department of Environment and Natural
33 Resources for the 2015-2016 fiscal year. Fee receipts previously deposited to the funds listed in
34 subsection (a) of this section shall be budgeted to support the programs and functions
35 previously supported by those funds.

37 PHASEOUT OF NONCOMMERCIAL LEAKING UST FUND

38 **SECTION 14.16A.(a)** G.S. 143-215.94B(b) reads as rewritten:

39 "(b) The Commercial Fund shall be used for the payment of the following costs up to an
40 aggregate maximum of one million dollars (\$1,000,000) per occurrence resulting from a
41 discharge or release of a petroleum product from a commercial underground storage tank:

- 42 (1) For discharges or releases discovered or reported between 30 June 1988 and
43 31 December 1991 inclusive, the cleanup of environmental damage as
44 required by G.S. 143-215.94E(a) in excess of fifty thousand dollars
45 (\$50,000) per occurrence.
- 46 (2) For discharges or releases discovered on or after 1 January 1992 and
47 reported between 1 January 1992 and 31 December 1993 inclusive, the
48 cleanup of environmental damage as required by G.S. 143-215.94E(a) in
49 excess of twenty thousand dollars (\$20,000) per occurrence.
- 50 (2a) For discharges or releases discovered and reported on or after 1 January
51 1994 and prior to 1 January 1995, the cleanup of environmental damage as

1 required by G.S. 143-215.94E(a) in excess of twenty thousand dollars
2 (\$20,000) if the owner or operator (i) notifies the Department prior to 1
3 January 1994 of its intent to permanently close the tank in accordance with
4 applicable regulations or to upgrade the tank to meet the requirements that
5 existing underground storage tanks must meet by 22 December 1998, (ii)
6 commences closure or upgrade of the tank prior to 1 July 1994, and (iii)
7 completes closure or upgrade of the tank prior to 1 January 1995.

8 (3) For discharges or releases reported on or after 1 January 1994, the cleanup of
9 environmental damage as required by G.S. 143-215.94E(a) in excess of
10 twenty thousand dollars (\$20,000) if, prior to the discharge or release, the
11 commercial underground storage tank from which the discharge or release
12 occurred met the performance standards applicable to tanks installed after 22
13 December 1988 or met the requirements that existing underground storage
14 tanks must meet by 22 December 1998.

15 (4) For discharges or releases reported on or after 1 January 1994 from a
16 commercial underground storage tank that does not qualify under
17 subdivision (2a) of this subsection or does not meet the standards in
18 subdivision (3) of this subsection, sixty percent (60%) of the costs per
19 occurrence of the cleanup of environmental damage as required by
20 G.S. 143-215.94E(a) that exceeds twenty thousand dollars (\$20,000) but is
21 not more than one hundred fifty-seven thousand five hundred dollars
22 (\$157,500) and one hundred percent (100%) of the costs above this amount,
23 up to the limits established in this section.

24 (5) Compensation to third parties for bodily injury and property damage in
25 excess of one hundred thousand dollars (\$100,000) per occurrence.

26 (6) Reimbursing the State for damages or other costs incurred as a result of a
27 loan from the Loan Fund. The per occurrence limit does not apply to
28 reimbursements to the State under this subdivision.

29 (7) Recordation of residual petroleum as required by G.S. 143B-279.11 if the
30 Commercial Fund is responsible for the payment of costs under subdivisions
31 (1) through (4) of this subsection.

32 (8) The costs of a site investigation required by the Department for the purpose
33 of determining whether a release from a tank system has occurred, whether
34 or not the investigation confirms that a release has occurred. This
35 subdivision shall not be construed to allow reimbursement for costs of
36 investigations that are part of routine leak detection procedures required by
37 statute or rule.

38 (9) If the owner or operator cannot be identified or fails to proceed with the
39 cleanup.

40 (10) That was taken out of operation prior to 1 January 1974 if, at the time the
41 discharge or release is discovered, neither the owner or operator owns or
42 leases the lands on which the tank is located.

43 (11) Where the owner of the commercial underground storage tank is the owner
44 only as a result of owning the land on which the commercial underground
45 storage tank is located, the owner did not know or have reason to know that
46 the underground storage tank was located on the property, and the land was
47 not transferred to the owner to avoid liability for the commercial
48 underground storage tank.

49 (12) Compensation to third parties for bodily injury and property damage in
50 excess of one hundred thousand dollars (\$100,000) per occurrence caused by
51 releases from noncommercial underground storage tanks reported to the

1 Department prior to August 1, 2015, if the claim for compensation is made
2 prior to July 1, 2016."

3 **SECTION 14.16A.(b)** G.S. 143-215.94D reads as rewritten:

4 **"§ 143-215.94D. Noncommercial Leaking Petroleum Underground Storage Tank**
5 **Cleanup Fund.**

6 (a) There is established under the control and direction of the Department the
7 Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund. This
8 Noncommercial Fund shall be a nonreverting revolving fund consisting of any monies
9 appropriated for such purpose by the General Assembly or available to it from grants, or other
10 monies paid to it or recovered on behalf of the Noncommercial Fund.

11 (b) The Noncommercial Fund shall be used for the payment of the costs set out in
12 subsection (b1) of this section, up to an aggregate maximum of one million dollars
13 (\$1,000,000) per occurrence resulting from a discharge or release of a petroleum product
14 reported to the Department prior to August 1, 2015, from:

15 (1) Noncommercial underground storage tanks if the discharge or release meets
16 the minimum priority criteria for corrective action established by the
17 Department.

18 ~~(2) Commercial underground storage tanks if the owner or operator cannot be~~
19 ~~identified or fails to proceed with the cleanup.~~

20 ~~(3) Commercial underground storage tanks that were taken out of operation~~
21 ~~prior to 1 January 1974 if, at the time the discharge or release is discovered,~~
22 ~~neither the owner or operator owns or leases the lands on which the tank is~~
23 ~~located.~~

24 ~~(4) Commercial underground storage tanks if the owner of the commercial~~
25 ~~underground storage tank is the owner only as a result of owning the land on~~
26 ~~which the commercial underground storage tank is located, the owner did~~
27 ~~not know or have reason to know that the underground storage tank was~~
28 ~~located on the property, and the land was not transferred to the owner to~~
29 ~~avoid liability for the commercial underground storage tank.~~

30 (b1) The Noncommercial Fund shall be used for the payment of the ~~costs of~~ following
31 costs, provided a claim for compensation is made prior to July 1, 2016:

32 (1) For releases discovered or reported to the Department prior to August 1,
33 2013, the cleanup of environmental damage as required by
34 G.S. 143-215.94E(a).

35 (1a) For releases ~~discovered or reported~~ to the Department on or after ~~August 1,~~
36 ~~2013,~~ August 1, 2013, and prior to August 1, 2015, the cleanup of
37 environmental damage as required by G.S.143-215.94E(a) in excess of two
38 thousand dollars (\$2,000) or the sum of the following amounts, whichever is
39 less:

40 a. A deductible of one thousand dollars (\$1,000) per occurrence.

41 b. A co-payment equal to ten percent (10%) of the costs of the cleanup
42 of environmental damage, per occurrence.

43 ~~(2) Compensation to third parties for bodily injury and property damage in~~
44 ~~excess of one hundred thousand dollars (\$100,000) per occurrence.~~

45 (3) Reimbursing the State for damages or other costs incurred as a result of a
46 loan from the Loan Fund. The per occurrence limit does not apply to
47 reimbursements to the State under this subdivision.

48 (4) Recordation of residual petroleum as required by G.S. 143B-279.11 if the
49 Noncommercial Fund is responsible for the payment of costs under
50 subdivisions (1) through (3) of this subsection and subsection (b) of this
51 section.

1 (b2) The Noncommercial Fund may be used by the Department for the payment of costs
2 necessary to render harmless any noncommercial underground storage tank from which a
3 discharge or release has not occurred but which poses an imminent hazard to the environment if
4 the owner or operator cannot be identified or located, or if the owner or operator fails to take
5 action to render harmless the underground storage tank within 90 days after having been
6 notified of the imminent hazard posed by the underground storage tank. The Secretary shall
7 seek to recover the costs of the action from the owner or operator as provided in
8 G.S. 143-215.94G.

9 (b3) For purposes of subsection (b1) of this section, the cleanup of environmental
10 damage includes connection of a third party to a public water system if the Department
11 determines that connection of the third party to a public water system is a cost-effective
12 measure, when compared to other available measures, to reduce risk to human health or the
13 environment. A payment or reimbursement under this subsection is subject to the requirements
14 and limitations of this section. This subsection shall not be construed to limit any right or
15 remedy available to a third party under any other provision of law. This subsection shall not be
16 construed to require a third party to connect to a public water system. Except as provided by
17 this subsection, connection to a public water system does not constitute cleanup under Part 2 of
18 this Article, G.S. 143-215.94E, G.S. 143-215.94V, any other applicable statute, or at common
19 law.

20 (b4) The Noncommercial Fund shall pay any claim made after 1 September 2001 for
21 compensation to third parties pursuant to subdivision (2) of subsection (b1) of this section only
22 if the owner, operator, or other party responsible for the discharge or release has complied with
23 the requirements of G.S. 143B-279.9 and G.S. 143B-279.11, unless compliance is prohibited
24 by another provision of law.

25 (c) The Noncommercial Fund is to be available on an occurrence basis, without regard
26 to number of occurrences associated with tanks owned or operated by the same owner or
27 operator.

28 (d) The Noncommercial Fund shall not be used for:

- 29 (1) Costs incurred as a result of a discharge or release from an aboveground
30 tank, aboveground pipe or fitting not connected to an underground storage
31 tank, or vehicle.
- 32 (2) The removal or replacement of any tank, pipe, fitting or related equipment.
- 33 (3) Costs incurred as a result of a discharge or release of petroleum from a
34 transmission pipeline.
- 35 (4) Costs intended to be paid for by the Commercial Fund.
- 36 (5) Costs associated with the administration of any underground storage tank
37 program other than the program administered pursuant to this Part.
- 38 (6) Costs paid or reimbursed by or from any source other than the
39 Noncommercial Fund, including, but not limited to, any payment or
40 reimbursement made under a contract of insurance.
- 41 (7) Costs incurred as a result of the cleanup of environmental damage to
42 groundwater to a more protective standard than the risk-based standard
43 required by the Department unless the cleanup of environmental damage to
44 groundwater to a more protective standard is necessary to resolve a claim for
45 compensation by a third party for property damage.
- 46 (8) Costs in excess of those required to achieve the most cost-effective cleanup.

47 (e) The Noncommercial Fund shall be treated as a special trust fund pursuant to
48 G.S. 147-69.2 and G.S. 147-69.3, except that interest and other income received on the Fund
49 balance shall be treated as set forth in G.S. 147-69.1(d).

50 (f) Expired October 1, 2011, pursuant to Session Laws 2001-442, s. 8, as amended by
51 Session Laws 2008-195, s. 11.

1 (g) The Noncommercial Fund may be used to support the administrative functions of
2 the program for underground storage tanks under this Part and Part 2B of this Article up to the
3 amounts allowed by law, which amounts may be changed from time to time. In the case of a
4 legislated increase or decrease in salaries and benefits, the administrative allowance existing at
5 the time of the increase or decrease shall be correspondingly increased or decreased an amount
6 equal to the legislated increase or decrease in salaries and benefits.

7 (h) During each fiscal year, the Department shall use up to one hundred thousand
8 (\$100,000) of the funds in the Noncommercial Fund to fund necessary assessment and cleanup
9 to be conducted by the Department of discharges or releases for which a responsible party has
10 been identified but for which the responsible party can demonstrate that undertaking the costs
11 of assessment and cleanup will impose a severe financial hardship. Any portion of the \$100,000
12 designated each fiscal year, which is not used during that fiscal year to address situations of
13 severe financial hardship, shall revert to the Noncommercial Fund for the uses otherwise
14 provided by this section. The Commission shall adopt rules to define severe financial hardship;
15 establish criteria for assistance due to severe financial hardship pursuant to this section; and
16 establish a process for evaluation and determinations of eligibility with respect to applications
17 for assistance due to severe financial hardship. The Commission shall create a subcommittee of
18 the Commission's Committee on Civil Penalty Remissions as established by G.S. 143B-282.1
19 to render determinations of eligibility under this subsection."

20 **SECTION 14.16A.(c)** G.S. 143-215.94N(b) reads as rewritten:

21 "(b) ~~The Except as otherwise specified in this Part, the~~ provisions of this Part as they
22 relate to costs paid from the Noncommercial Fund apply to discharges or releases without
23 regard to the date discovered or reported; however, reimbursement of costs under
24 G.S. 143-215.94G(d)(1), (2), (3), (3a), and (4) shall be for the full amount of the costs paid for
25 from the Noncommercial Fund and shall not be limited pursuant to G.S. 143-215.94E(b) for
26 discharges or releases from commercial underground storage tanks discovered or reported on or
27 before 30 June 1988."

28 **SECTION 14.16A.(d)** G.S. 143-215.94A(6), G.S. 143-215.94B(d)(4),
29 G.S. 143-215.94D, and G.S. 143-215.94N(b) are repealed.

30 **SECTION 14.16A.(e)** G.S. 143-215.94E reads as rewritten:

31 "**§ 143-215.94E. Rights and obligations of the owner or operator.**

32 ...

33 (b1) In the case of a discharge or release from a commercial underground storage tank
34 where the owner and operator cannot be identified or located, or where the owner and operator
35 fail to proceed as required by subsection (a) of this section, the following requirements apply:

36 (1) ~~If~~ the current landowner of the land in which the commercial underground
37 storage tank is located notifies the Department in accordance with
38 G.S. 143-215.85 and undertakes to collect and remove the discharge or
39 release and to restore the area affected in accordance with the requirements
40 of this Article and applicable federal and State laws, regulations, and rules,
41 the current landowner may elect to have the Commercial Fund pay or
42 reimburse the current landowner for any costs described in subdivisions (1),
43 (2), (2a), (3), and (4) of G.S. 143-215.94B(b) or G.S. 143-215.94B(b1) that
44 exceed the amounts for which the owner or operator is responsible under that
45 subsection.

46 a. The current landowner is not eligible for payment or reimbursement
47 until the current landowner has paid the costs described in
48 subdivisions (1), (2), (2a), (3), and (4) of G.S. 143-215.94B(b) or
49 G.S. 143-215.94B(b1) for which the owner or operator is
50 responsible.

1 **b.** Eligibility for reimbursement under this subsection may be
2 transferred from a current landowner who has paid the costs
3 described in subdivisions (1), (2), (2a), (3), and (4) of
4 G.S. 143-215.94B(b) or G.S. 143-215.94B(b1) to a subsequent
5 landowner.

6 The current landowner shall submit documentation of all expenditures as
7 required by G.S. 143-215.94G(b).

8 (2) The sum of payments from the Commercial Fund and from all other sources
9 shall not exceed one million dollars (\$1,000,000) per discharge or release
10 except as provided in G.S. 143-215.94B(b2).

11 (3) This subsection shall not be construed to require a current landowner to
12 cleanup a discharge or release of petroleum from an underground storage
13 tank for which the current landowner is not otherwise responsible. This
14 subsection does not alter any right, duty, obligation, or liability of a current
15 landowner, former landowner, subsequent landowner, owner, or operator
16 under other provisions of law.

17 (4) This subsection shall not be construed to limit the authority of the
18 Department to engage in a cleanup under this Article or any other provision
19 of law. In the event that an owner or operator is subsequently identified or
20 located, the Secretary shall seek reimbursement as provided in
21 G.S. 143-215.94G(d). ~~The current landowner shall submit documentation of~~
22 ~~all expenditures as required by G.S. 143-215.94G(b).~~

23 ~~(e) In the case of a discharge or release from a noncommercial underground storage~~
24 ~~tank or a commercial underground storage tank eligible for the Noncommercial Fund in~~
25 ~~accordance with G.S. 143-215.94D(b), where the owner or operator has been identified and has~~
26 ~~proceeded with the cleanup, the owner or operator may elect to have the Noncommercial Fund~~
27 ~~pay or reimburse the owner or operator for any costs described in G.S. 143-215.94D(b1) up to a~~
28 ~~maximum of one million dollars (\$1,000,000) per discharge or release.~~

29 ~~(e1) In the case of a discharge or release from a noncommercial underground storage~~
30 ~~tank where the owner and operator cannot be identified or located, or where the owner and~~
31 ~~operator fail to proceed as required by subsection (a) of this section, if the current landowner of~~
32 ~~the land in which the noncommercial underground storage tank is located notifies the~~
33 ~~Department in accordance with G.S. 143-215.85 and undertakes to collect and remove the~~
34 ~~discharge or release and to restore the area affected in accordance with the requirements of this~~
35 ~~Article and applicable federal and State laws, regulations, and rules, the current landowner may~~
36 ~~elect to have the Noncommercial Fund pay or reimburse the current landowner for any costs~~
37 ~~described in G.S. 143-215.94D(b1). Eligibility for reimbursement under this subsection may be~~
38 ~~transferred to a subsequent landowner from a current landowner. The sum of payments from~~
39 ~~the Noncommercial Fund and from all other sources shall not exceed one million dollars~~
40 ~~(\$1,000,000) per discharge or release. This subsection shall not be construed to require a~~
41 ~~current landowner to clean up a discharge or release of petroleum from an underground storage~~
42 ~~tank for which the current landowner is not otherwise responsible. This subsection does not~~
43 ~~alter any right, duty, obligation, or liability of a current landowner, former landowner,~~
44 ~~subsequent landowner, owner, or operator under other provisions of law. This subsection shall~~
45 ~~not be construed to limit the authority of the Department to engage in a cleanup under this~~
46 ~~Article or any other provision of law. The current landowner shall submit documentation of all~~
47 ~~expenditures as required by G.S. 143-215.94G(b).~~

48 ...

49 (e1) The Department may contract for any services necessary to evaluate any claim for
50 reimbursement or compensation from ~~either the Commercial Fund or the Noncommercial Fund,~~
51 may contract for any expert witness or consultant services necessary to defend any decision to

1 pay or deny any claim for reimbursement, and may pay the cost of these services from the fund
2 against which the claim is made; provided that in any fiscal year the Department shall not
3 expend from either fund more than one percent (1%) of the unobligated balance of the fund on
4 30 June of the previous fiscal year. The cost of contractual services to evaluate a claim or for
5 expert witness or consultant services to defend a decision with respect to a claim shall be
6 included as costs under G.S. 143-215.94B(b), 143-215.94B(b1), and 143-215.94D(b1).

7 ...

8 (e4) (1) If the owner or operator takes initial steps to collect and remove the
9 discharge or release as required by the Department and completes the initial
10 assessment required to determine degree of risk, the owner or operator shall
11 not be subject to any violation or penalty for any failure to proceed with
12 further assessment or cleanup under G.S. 143-215.84 or this section before
13 the owner or operator is authorized to proceed with further assessment or
14 cleanup as provided in subsection (e5) of this section. The lack of
15 availability of funds in the Commercial Fund ~~or the Noncommercial Fund~~
16 shall not relieve an owner or operator of responsibility to immediately
17 undertake to collect and remove the discharge or release or to conduct any
18 assessment or cleanup ordered by the Department or be a defense against
19 any violations and penalties issued to the owner or operator for failure to
20 conduct required assessment or cleanup.

21 (2) The Department shall establish the degree of risk to human health and the
22 environment posed by a discharge or release of petroleum from a
23 commercial underground storage tank and shall determine a schedule for
24 further assessment and cleanup that is based on the degree of risk to human
25 health and the environment posed by the discharge or release and that gives
26 priority to the assessment and cleanup of discharges and releases that pose
27 the greatest risk. If any of the costs of assessment and cleanup of the
28 discharge or release from a commercial underground storage tank are
29 eligible to be paid or reimbursed from the Commercial Fund, the Department
30 shall also consider the availability of funds in the Commercial Fund and the
31 order in which the discharge or release was reported in determining the
32 schedule.

33 ~~(3) The Department shall establish the degree of risk to human health and the~~
34 ~~environment posed by a discharge or release of petroleum from a~~
35 ~~noncommercial underground storage tank and shall determine a schedule for~~
36 ~~further assessment and cleanup that is based on the degree of risk to human~~
37 ~~health and the environment posed by the discharge or release and that gives~~
38 ~~priority to the assessment and cleanup of discharges and releases that pose~~
39 ~~the greatest risk. If any of the costs of assessment or cleanup of the discharge~~
40 ~~or release from a noncommercial underground storage tank are eligible to be~~
41 ~~paid or reimbursed from the Noncommercial Fund, the Department shall~~
42 ~~also consider the availability of funds in the Noncommercial Fund and the~~
43 ~~order in which the discharge or release was reported in determining the~~
44 ~~schedule.~~

45 (4) The Department may revise the schedules that apply to the assessment and
46 cleanup of any discharge or release at any time based on its reassessment of
47 any of the foregoing factors.

48 ...

49 (f1) Any person seeking payment or reimbursement from ~~either the Commercial Fund or~~
50 ~~the Noncommercial Fund~~ shall certify to the Department that the costs to be paid or reimbursed
51 by the Commercial Fund ~~or the Noncommercial Fund~~ are not eligible to be paid or reimbursed

1 by or from any other source, including any contract of insurance. If any cost paid or reimbursed
2 by the Commercial Fund ~~or the Noncommercial Fund~~ is eligible to be paid or reimbursed by or
3 from another source, that cost shall not be paid from, or if paid shall be repaid to, the
4 Commercial Fund ~~or the Noncommercial Fund~~. As used in this Part, the phrase "any other
5 source including any contract of insurance" does not include self-insurance.

6 ...

7 (j) An owner, operator, or landowner shall request that the Department determine
8 whether any of the costs of assessment and cleanup of a discharge or release from a petroleum
9 underground storage tank are eligible to be paid or reimbursed from either the Commercial
10 Fund ~~or the Noncommercial Fund~~ within one year after completion of any task that is eligible
11 to be paid or reimbursed under G.S. 143-215.94B(b), 143-215.94B(b1), or 143-215.94D(b1).

12 (k) An owner, operator, or landowner shall request payment or reimbursement from the
13 Commercial Fund ~~or the Noncommercial Fund~~ for the cost of a task within one year after the
14 completion of the task. The Department shall deny any request for payment or reimbursement
15 of the cost of any task that would otherwise be eligible to be paid or reimbursed if the request is
16 not received within 12 months after the later of the date on which the:

- 17 (1) Department determines that the cost is eligible to be paid or reimbursed.
- 18 (2) Task is completed."

19 **SECTION 14.16A.(f)** G.S. 143-215.94G reads as rewritten:

20 "**§ 143-215.94G. Authority of the Department to engage in cleanups; actions for fund**
21 **reimbursement.**

22 (a) The Department may use staff, equipment, or materials under its control or provided
23 by other cooperating federal, State, or local agencies and may contract with any agent or
24 contractor it deems appropriate to investigate a release, to develop and implement a cleanup
25 plan, to provide interim alternative sources of drinking water to third parties, and to pay the
26 initial costs for providing permanent alternative sources of drinking water to third parties, and
27 shall pay the costs resulting from ~~commercial underground storage tanks~~ from the Commercial
28 Fund ~~and shall pay the costs resulting from noncommercial underground storage tanks from the~~
29 ~~Noncommercial Fund.~~ Fund whenever there is a discharge or release of petroleum from any of
30 the following:

- 31 (1) A noncommercial underground storage tank.
- 32 (2) An underground storage tank whose owner or operator cannot be identified
33 or located.
- 34 (3) An underground storage tank whose owner or operator fails to proceed as
35 required by G.S. 143-215.94E(a).
- 36 (4) A commercial underground storage tank taken out of operation prior to 1
37 January 1974 if, when the discharge or release is discovered, neither the
38 owner nor operator owns or leases the land on which the underground
39 storage tank is located.

40 (a1) Every State agency shall provide to the Department to the maximum extent feasible
41 such staff, equipment, and materials as may be available and useful to the development and
42 implementation of a cleanup program.

43 (a2) The cost of any action authorized under subsection (a) of this section shall be paid,
44 to the extent funds are available, from the following sources in the order listed:

- 45 (1) Any funds to which the State is entitled under any federal program providing
46 for the cleanup of petroleum discharges or releases from underground
47 storage tanks, including, but not limited to, the Leaking Underground
48 Storage Tank Trust Fund established pursuant to 26 U.S.C. § 4081 and 42
49 U.S.C. § 6991b(h).
- 50 (2) The Commercial Fund ~~or the Noncommercial Fund~~.

1 (a3) Expired October 1, 2011, pursuant to Session Laws 2001-442, s. 8, as amended by
2 Session Laws 2008-195, s. 11.

3 (b) Whenever the discharge or release of a petroleum product is from a commercial
4 underground storage tank, the Department may supervise the cleanup of environmental damage
5 required by G.S. 143-215.94E(a). If the owner or operator elects to have the Commercial Fund
6 reimburse or pay for any costs allowed under subsection (b) or (b1) of G.S. 143-215.94B, the
7 Department shall require the owner or operator to submit documentation of all expenditures
8 claimed for the purposes of establishing that the owner or operator has spent the amounts
9 required to be paid by the owner or operator pursuant to and in accordance with
10 G.S. 143-215.94E(b). The Department shall allow credit for all expenditures that the
11 Department determines to be reasonable and necessary. The Department may not pay for any
12 costs for which the Commercial Fund was established until the owner or operator has paid the
13 amounts specified in G.S. 143-215.94E(b).

14 (c) The Secretary shall keep a record of all expenses incurred for the services of State
15 personnel and for the use of the State's equipment and material.

16 (d) The Secretary shall seek reimbursement through any legal means available, for:

17 (1) Any costs not authorized to be paid from ~~either the Commercial or the~~
18 ~~Noncommercial~~ Fund;

19 (2) The amounts provided for in G.S. 143-215.94B(b) or G.S. 143-215.94B(b1)
20 required to be paid for by the owner or operator pursuant to
21 G.S. 143-215.94E(b) where the owner or operator of a commercial
22 underground storage tank is later identified or located;

23 (3) The amounts provided for in G.S. 143-215.94B(b) or G.S. 143-215.94B(b1)
24 required to be paid for by the owner or operator pursuant to
25 G.S. 143-215.94E(b) where the owner or operator of a commercial
26 underground storage tank failed to proceed as required by
27 G.S. 143-215.94E(a);

28 (3a) The amounts provided for by G.S. 143-215.94B(b)(5) required to be paid by
29 the owner or operator to third parties for the cost of providing interim
30 alternative sources of drinking water to third parties and the initial cost of
31 providing permanent alternative sources of drinking water to third parties;

32 (4) Any funds due under G.S. 143-215.94E(g); and

33 (5) Any funds to which the State is entitled under any federal program providing
34 for the cleanup of petroleum discharges or releases from underground
35 storage tanks; [and]

36 (6) The amounts provided for in G.S. 143-215.94B(b5) and
37 G.S. 143-215.94D(b2).

38 (e) In the event that a civil action is commenced to secure reimbursement pursuant to
39 subdivisions (1) through (4) of subsection (d) of this section, the Secretary may recover, in
40 addition to any amount due, the costs of the action, including but not limited to reasonable
41 attorney's fees and investigation expenses. Any monies received or recovered as reimbursement
42 shall be paid into the appropriate fund or other source from which the expenditures were made.

43 ~~(f) In the event that a recovery equal to or in excess of the amounts required to be paid~~
44 ~~for by the owner or operator pursuant to G.S. 143-215.94E(b) is recovered pursuant to~~
45 ~~subdivisions (2) and (3) of subsection (d) of this section for the costs described in~~
46 ~~G.S. 143-215.94B(b) or G.S. 143-215.94B(b1), the Department shall transfer funds from the~~
47 ~~Commercial Fund that would have been paid from the Commercial Fund pursuant to subsection~~
48 ~~(b) or (b2) of G.S. 143-215.94B if the owner or operator had proceeded with the cleanup, but~~
49 ~~which were paid from the Noncommercial Fund, into the Noncommercial Fund.~~

50 (g) If the Department paid or reimbursed costs that are not authorized to be paid or
51 reimbursed under G.S. 143-215.94B or G.S. 143-215.94D as a result of a misrepresentation by

1 an agent who acted on behalf of an owner, operator, or landowner, the Department shall first
2 seek reimbursement, pursuant to subdivision (1) of subsection (d) of this section, from the
3 agent of monies paid to or retained by the agent.

4 (h) The Department shall take administrative action to recover costs or bring a civil
5 action pursuant to subdivision (1) of subsection (d) of this section to seek reimbursement of
6 costs in accordance with the time limits set out in this subsection.

7 (1) The Department shall take administrative action to recover costs or bring a
8 civil action to seek reimbursement of costs that are not authorized to be paid
9 from the Commercial Fund under subdivision (1), (2), or (3) of
10 G.S. 143-215.94B(d) ~~or from the Noncommercial Fund under subdivision~~
11 ~~(1), (2), or (3) of G.S. 143-215.94D(d)~~ within five years after payment.

12 (2) The Department shall take administrative action to recover costs or bring a
13 civil action to seek reimbursement of costs other than those described in
14 subdivision (1) of this subsection within three years after payment.

15 (3) Notwithstanding the time limits set out in subdivisions (1) and (2) of this
16 subsection, the Department may take administrative action to recover costs
17 or bring a civil action to seek reimbursement of costs paid as a result of
18 fraud or misrepresentation at any time.

19 (i) An administrative action or civil action that is not commenced within the time
20 allowed by subsection (h) of this section is barred.

21 (j) Except with the consent of the claimant, the Department may not withhold payment
22 or reimbursement of costs that are authorized to be paid from the Commercial Fund ~~or the~~
23 ~~Noncommercial Fund~~ in order to recover any other costs that are in dispute unless the
24 Department is authorized to withhold payment by a final decision of the Commission pursuant
25 to G.S. 150B-36 or an order or final decision of a court."

26 **SECTION 14.16A.(g)** G.S. 143-215.94J reads as rewritten:

27 "**§ 143-215.94J. Limitation of liability of the State of North Carolina.**

28 (a) No claim filed against ~~either the Commercial Fund or the Noncommercial Fund~~
29 shall be paid except from assets of the respective fund as provided for in this Part or as may
30 otherwise be authorized by law.

31 (b) This Part shall not be construed to obligate the General Assembly to make any
32 appropriation to implement the provisions of this Part; nor shall it be construed to obligate the
33 Secretary to take any action pursuant to this Part for which funds are not available from
34 appropriations or otherwise.

35 (c) The Secretary may budget anticipated receipts as needed to implement this Part.

36 ~~(d) Should the Secretary find that the Noncommercial Fund balance is insufficient to~~
37 ~~satisfy all claims and other obligations of the Noncommercial Fund incurred pursuant to this~~
38 ~~Part, the Secretary may transfer funds which would otherwise revert to the General Fund to the~~
39 ~~Noncommercial Fund in order to meet such claims and obligations.~~

40 (e) If at any time ~~either the~~ fund balance is insufficient to pay all valid claims against it,
41 the claims shall be paid in full in the order in which they are finally determined. The Secretary
42 may retain not more than five hundred thousand dollars (\$500,000) in the ~~Noncommercial~~
43 Commercial Fund as a contingency reserve and not apply the reserve to the claims. The
44 Department may use the contingency reserve to conduct cleanups in accordance with
45 G.S. 143-215.94G when an imminent hazard poses a threat to human health or to significant
46 natural resources."

47 **SECTION 14.16A.(h)** G.S. 143-215.94M reads as rewritten:

48 "**§ 143-215.94M. Reports.**

49 (a) The Secretary shall present an annual report to the Environmental Review
50 Commission, the Fiscal Research Division, the Senate Appropriations Subcommittee on

1 Natural and Economic Resources, and the House Appropriations Subcommittee on Natural and
2 Economic Resources which shall include at least the following:

- 3 (1) A list of all discharges or releases of petroleum from underground storage
4 tanks.
- 5 (2) ~~A list of all cleanups requiring State funding through the Noncommercial
6 Fund and a comprehensive budget to complete such cleanups.~~
- 7 (3) A list of all cleanups undertaken by tank owners or operators and the status
8 of these cleanups.
- 9 (4) A statement of receipts and disbursements for ~~both~~ the Commercial Fund
10 ~~and the Noncommercial Fund.~~
- 11 (5) A statement of all claims against ~~both~~ the Commercial Fund ~~and the~~
12 ~~Noncommercial Fund~~, including claims paid, claims denied, pending claims,
13 anticipated claims, and any other obligations.
- 14 (6) The adequacy of ~~both~~ the Commercial Fund ~~and the Noncommercial Fund~~ to
15 carry out the purposes of this Part together with any recommendations as to
16 measures that may be necessary to assure the continued solvency of the
17 Commercial Fund ~~and the Noncommercial Fund.~~
- 18 (7) Repealed by Session Laws 2012-200, s. 23, effective August 1, 2012.

19 (b) The report required by this section shall be made by the Secretary on or before
20 November 1 of each year."

21 **SECTION 14.16A.(i)** Subsections (d) through (h) of this section become effective
22 December 31, 2016. The balance remaining in the Noncommercial Leaking Petroleum
23 Underground Storage Tank Cleanup Fund and any outstanding requests for payment or
24 reimbursement that have been deemed eligible by the Department prior to that date are
25 transferred to the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund.
26 The Revisor of Statutes may conform names and titles changed by this section, and may correct
27 statutory references as required by this section, throughout the General Statutes. In making the
28 changes authorized by this section, the Revisor may also adjust subject and verb agreement and
29 the placement of conjunctions.
30

31 ENVIRONMENTAL ASSESSMENT METHODOLOGY

32 **SECTION 14.19.** The Department of Environment and Natural Resources shall
33 review and revise its procedures and rate tables for reimbursement of soil assessment activities
34 in order to facilitate the use of the Ultra Violet Fluorescence (UVF) test method as a substitute
35 for US EPA Method 8015 for soil assessment and petroleum contamination delineation
36 activities, where the substitution would (i) not violate federal law or regulations, (ii) provide
37 equivalent accuracy and quality of results, and (iii) result in appreciable cost savings.
38

39 LANDFILL CHANGES

40 **SECTION 14.20.(a)** G.S. 130A-294 reads as rewritten:
41 "**§ 130A-294. Solid waste management program.**

42 (a) The Department is authorized and directed to engage in research, conduct
43 investigations and surveys, make inspections and establish a statewide solid waste management
44 program. In establishing a program, the Department shall have authority to:

- 45 ...
- 46 (4) a. Develop a permit system governing the establishment and operation
47 of solid waste management facilities. A landfill with a disposal area
48 of 1/2 acre or less for the on-site disposal of land clearing and inert
49 debris is exempt from the permit requirement of this section and shall
50 be governed by G.S. 130A-301.1. Demolition debris from the
51 decommissioning of manufacturing buildings, including electric

1 generating stations, that is disposed of on the same site as the
2 decommissioned buildings, is exempt from the permit requirement of
3 this section and rules adopted pursuant to this section and shall be
4 governed by G.S. 130A-301.3. The Department shall not approve an
5 application for a new permit, ~~the renewal of a permit, major permit~~
6 modification, or a substantial amendment to a permit for a sanitary
7 landfill, excluding demolition landfills as defined in the rules of the
8 Commission, except as provided in subdivisions (3) and (4) of
9 subsection (b1) of this section. No permit shall be granted for a solid
10 waste management facility having discharges that are point sources
11 until the Department has referred the complete plans and
12 specifications to the Commission and has received advice in writing
13 that the plans and specifications are approved in accordance with the
14 provisions of G.S. 143-215.1. In any case where the Department
15 denies a permit for a solid waste management facility, it shall state in
16 writing the reason for denial and shall also state its estimate of the
17 changes in the applicant's proposed activities or plans that will be
18 required for the applicant to obtain a permit.

19 ...

20 (a2) ~~Permits for sanitary landfills and transfer stations shall be issued for (i) a design and~~
21 ~~operation phase of five years or (ii) a design and operation phase of 10 years. A permit issued~~
22 ~~for a design and operation phase of 10 years shall be subject to a limited review within five~~
23 ~~years of the issuance date.~~the life-of-site of the facility unless revoked as otherwise provided
24 under this Article or upon the expiration of any local government franchise required for the
25 facility pursuant to subsection (b1) of this section. For purposes of this section, "life-of-site"
26 means the period from the initial receipt of solid waste at the facility until the Department
27 approves final closure of the facility. Permits issued pursuant to this subsection shall take into
28 account the duration of any permits previously issued for the facility and the remaining
29 capacity at the facility.

30 (a3) Each permit for a sanitary landfill and transfer station shall have a limited review of
31 the permit five years after issuance of the initial permit and at five-year intervals thereafter until
32 expiration of the permit. The limited review includes review of the operational activities at the
33 facility for the preceding time period, as well as future operational plans, financial assurance
34 cost estimates, environmental monitoring plans, closure plans, post-closure plans, and any other
35 applicable plans for the facility. Whenever such review is undertaken, the Department may
36 modify the permit to include additional limitations, standards, or conditions when the technical
37 limitations, standards, or conditions on which the original permit was based have been changed
38 by statute or rule. If, upon such review, the Department finds that repeated material or
39 substantial violations at the sanitary landfill render operation of the facility a danger to human
40 health, safety, and welfare, or the environment, the Department shall modify or revoke the
41 permit. Parties aggrieved by a final decision of the Department pursuant to this subsection may
42 appeal the decision as provided under Article 3 of Chapter 150B of the General Statutes.

43 (b) The Commission shall adopt and the Department shall enforce rules to implement a
44 comprehensive statewide solid waste management program. The rules shall be consistent with
45 applicable State and federal law; and shall be designed to protect the public health, safety, and
46 welfare; preserve the environment; and provide for the greatest possible conservation of
47 cultural and natural resources. Rules for the establishment, location, operation, maintenance,
48 use, discontinuance, recordation, post-closure care of solid waste management facilities also
49 shall be based upon recognized public health practices and procedures, including applicable
50 epidemiological research and studies; hydrogeological research and studies; sanitary
51 engineering research and studies; and current technological development in equipment and

1 methods. The rules shall not apply to the management of solid waste that is generated by an
2 individual or individual family or household unit on the individual's property and is disposed of
3 on the individual's property.

4 (b1) (1) For purposes of this subsection and subdivision (4) of subsection (a) of this
5 section, a "substantial amendment" means either:

6 a. An increase of ten percent (10%) or more in:

- 7 1. The population of the geographic area to be served by the
8 sanitary landfill;
- 9 2. The quantity of solid waste to be disposed of in the sanitary
10 landfill; or
- 11 3. The geographic area to be served by the sanitary landfill.

12 b. A change in the categories of solid waste to be disposed of in the
13 sanitary landfill or any other change to the application for a permit or
14 to the permit for a sanitary landfill that the Commission or the
15 Department determines to be substantial.

16 (2) A person who intends to apply for a new permit, ~~the renewal of a permit,~~
17 major permit modification, or a substantial amendment to a permit for a
18 sanitary landfill shall obtain, prior to applying for a permit, a franchise for
19 the operation of the sanitary landfill from each local government having
20 jurisdiction over any part of the land on which the sanitary landfill and its
21 appurtenances are located or to be located. A local government may adopt a
22 franchise ordinance under G.S. 153A-136 or G.S. 160A-319. A franchise
23 granted for a sanitary landfill shall be granted for the life-of-site of the
24 landfill and shall include all of the following:

25 a. A statement of the population to be served, including a description of
26 the geographic area.

27 b. A description of the volume and characteristics of the waste stream.

28 c. A projection of the useful life of the sanitary landfill.

29 d. Repealed by Session Laws 2013-409, s. 8, effective August 23, 2013.

30 e. The procedures to be followed for governmental oversight and
31 regulation of the fees and rates to be charged by facilities subject to
32 the franchise for waste generated in the jurisdiction of the franchising
33 entity.

34 f. A facility plan for the sanitary landfill that shall include the
35 boundaries of the proposed facility, proposed development of the
36 ~~facility site in five-year operational phases,~~ site, the boundaries of all
37 waste disposal units, final elevations and capacity of all waste
38 disposal units, the amount of waste to be received per day in tons, the
39 total waste disposal capacity of the sanitary landfill in tons, a
40 description of environmental controls, and a description of any other
41 waste management activities to be conducted at the facility. In
42 addition, the facility plan shall show the proposed location of soil
43 borrow areas, leachate facilities, and all other facilities and
44 infrastructure, including ingress and egress to the facility.

45 ...
46 (4) An applicant for a new permit, ~~the renewal of a permit,~~ major permit
47 modification, or a substantial amendment to a permit for a sanitary landfill
48 shall request each local government having jurisdiction over any part of the
49 land on which the sanitary landfill and its appurtenances are located or to be
50 located to issue a determination as to whether the local government has in
51 effect a franchise, zoning, subdivision, or land-use planning ordinance

1 applicable to the sanitary landfill and whether the proposed sanitary landfill,
2 or the existing sanitary landfill as it would be operated under the ~~renewed or~~
3 major permit modification or substantially amended permit, would be
4 consistent with the applicable ordinances. The request to the local
5 government shall be accompanied by a copy of the permit application and
6 shall be delivered to the clerk of the local government personally or by
7 certified mail. In order to serve as a basis for a determination that an
8 application for a new permit, ~~the renewal of a permit,~~ major permit
9 modification, or a substantial amendment to a permit for a sanitary landfill is
10 consistent with a zoning, subdivision, or land-use planning ordinance, an
11 ordinance or zoning classification applicable to the real property designated
12 in the permit application shall have been in effect not less than 90 days prior
13 to the date the request for a determination of consistency is delivered to the
14 clerk of the local government. The determination shall be verified or
15 supported by affidavit signed by the chief administrative officer, the chief
16 administrative officer's designee, clerk, or other official designated by the
17 local government to make the determination and, if the local government
18 states that the sanitary landfill as it would be operated under the ~~new,~~
19 ~~renewed,~~ new permit, major permit modification, or substantially amended
20 permit is inconsistent with a franchise, zoning, subdivision, or land-use
21 planning ordinance, shall include a copy of the ordinance and the specific
22 reasons for the determination of inconsistency. A copy of the determination
23 shall be provided to the applicant when the determination is submitted to the
24 Department. The Department shall not act upon an application for a permit
25 under this section until it has received a determination from each local
26 government requested to make a determination by the applicant; provided
27 that if a local government fails to submit a determination to the Department
28 as provided by this subsection within 15 days after receipt of the request, the
29 Department shall proceed to consider the permit application without regard
30 to a franchise, local zoning, subdivision, and land-use planning ordinances.
31 Unless the local government makes a subsequent determination of
32 consistency with all ordinances cited in the determination or the sanitary
33 landfill as it would be operated under the ~~new, renewed,~~ new permit, major
34 permit modification, or substantially amended permit is determined by a
35 court of competent jurisdiction to be consistent with the cited ordinances, the
36 Department shall attach as a condition of the permit a requirement that the
37 applicant, prior to construction or operation of the sanitary landfill under the
38 permit, comply with all lawfully adopted local ordinances cited in the
39 determination that apply to the sanitary landfill. This subsection shall not be
40 construed to affect the validity of any lawfully adopted franchise, local
41 zoning, subdivision, or land-use planning ordinance or to affect the
42 responsibility of any person to comply with any lawfully adopted franchise,
43 local zoning, subdivision, or land-use planning ordinance. This subsection
44 shall not be construed to limit any opportunity a local government may have
45 to comment on a permit application under any other law or rule. This
46 subsection shall not apply to any facility with respect to which local
47 ordinances are subject to review under either G.S. 104E-6.2 or
48 G.S. 130A-293.

- 49 (5) As used in this subdivision, "coal-fired generating unit" and "investor-owned
50 public utility" have the same meaning as in G.S. 143-215.107D(a).
51 Notwithstanding subdivisions (a)(4), (b1)(3), or (b1)(4) of this section, no

1 franchise shall be required for a sanitary landfill used only to dispose of
2 waste generated by a coal-fired generating unit that is owned or operated by
3 an investor-owned utility subject to the requirements of G.S. 143-215.107D.

4"

5 **SECTION 14.20.(b)** No later than July 1, 2016, the Environmental Management
6 Commission shall adopt rules to allow applicants for permits for sanitary landfills to apply for a
7 permit for the life-of-site of the facility. No later than July 1, 2016, the Commission shall also
8 adopt rules to allow applicants for permits for transfer stations to apply for a permit to construct
9 and operate a transfer station for the life-of-site of the station.

10 **SECTION 14.20.(c)** G.S. 130A-295.8 reads as rewritten:

11 **"§ 130A-295.8. Fees applicable to permits for solid waste management facilities.**

12 (a) The Solid Waste Management Account is established as a nonreverting account
13 within the Department. All fees collected under this section shall be credited to the Account
14 and shall be used to support the solid waste management program established pursuant to
15 G.S. 130A-294.

16 (b) As used in this section:

17 (1) "Major permit modification" means either of the following:

- 18 a. ~~an~~ An application for any change to the approved engineering plans
19 for a sanitary landfill or transfer station permitted for a 10-year
20 life-of-site design capacity that does not constitute a "permit
21 amendment," "new permit," or "permit modification."
22 b. An application for a permit to be issued pursuant to
23 G.S. 130A-294(a2), which is issued for a duration of less than a
24 facility's life-of-site based upon permits previously issued to a
25 facility.

26 (1a) "New permit" means any of the following:

- 27 a. An application for a permit for a solid waste management facility
28 that has not been previously permitted by the Department. The term
29 includes one site suitability review, the initial permit to construct,
30 and one permit to ~~operate the constructed portion of a phase included~~
31 ~~in the permit to construct.~~ operate.
32 b. An application that proposes to expand the boundary of a permitted
33 waste management facility for the purpose of expanding the
34 permitted activity.
35 c. An application that includes a proposed expansion to the boundary of
36 a waste disposal unit within a permitted solid waste management
37 facility.
38 d. An application for a substantial amendment to a solid waste permit,
39 as defined in G.S. 130A-294.

40 (2) "Permit amendment" means any of the following:

- 41 a. ~~An application for a permit to construct and one permit to operate for~~
42 ~~the second and subsequent phases of landfill development described~~
43 ~~in the approved facility plan for a permitted solid waste management~~
44 ~~facility.~~
45 b. An application for the five-year renewal of a permit for a permitted
46 solid waste management facility or for a permit review of a permitted
47 solid waste management facility. This sub-subdivision shall not
48 apply to sanitary landfills or transfer stations.
49 c. Any application that proposes a change in ownership or corporate
50 structure of a permitted solid waste management facility. This

- 1 sub-subdivision shall not apply to sanitary landfills or transfer
2 stations.
- 3 (3) "Permit modification" means any of the following:
- 4 a. An application for any change to the plans approved in a permit for a
5 solid waste management facility that does not constitute a "permit
6 amendment" or a "new permit". This sub-subdivision shall not apply
7 to sanitary landfills or transfer stations.
- 8 b. ~~A second or subsequent permit to operate for a constructed portion of~~
9 ~~a phase included in the permit to construct.~~
- 10 c. An application for a five-year limited review of a ~~10-year life-of-site~~
11 permit, as required by ~~G.S. 130A-294(a2),~~ G.S. 130A-294(a3),
12 including review of the ~~operations plan, operational activities at the~~
13 facility for the preceding time period, as well as future operational
14 plans, closure plan, plans, post-closure plan, plans, financial
15 assurance cost estimates, environmental monitoring plans, and any
16 other applicable plans for the facility.
- 17 (4) "Ownership modification" means any application that proposes a change in
18 ownership or corporate structure of a permitted sanitary landfill or transfer
19 station.
- 20 (e) ~~An applicant for a permit shall pay an application fee upon submission of an~~
21 ~~application according to the following schedule:~~
- 22 (1) ~~Municipal Solid Waste Landfill accepting less than 100,000 tons/year of~~
23 ~~solid waste, New Permit (Five Year) — \$25,000.~~
- 24 (1a) ~~Municipal Solid Waste Landfill accepting less than 100,000 tons/year of~~
25 ~~solid waste, New Permit (Ten Year) — \$38,500.~~
- 26 (2) ~~Municipal Solid Waste Landfill accepting less than 100,000 tons/year of~~
27 ~~solid waste, Amendment (Five Year) — \$15,000.~~
- 28 (2a) ~~Municipal Solid Waste Landfill accepting less than 100,000 tons/year of~~
29 ~~solid waste, Amendment (Ten Year) — \$28,500.~~
- 30 (3) ~~Municipal Solid Waste Landfill accepting less than 100,000 tons/year of~~
31 ~~solid waste, Modification (Five Year) — \$1,500.~~
- 32 (3a) ~~Municipal Solid Waste Landfill accepting less than 100,000 tons/year of~~
33 ~~solid waste, Major Modification (Ten Year) — \$7,500.~~
- 34 (4) ~~Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid~~
35 ~~waste, New Permit (Five Year) — \$50,000.~~
- 36 (4a) ~~Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid~~
37 ~~waste, New Permit (Ten Year) — \$77,000.~~
- 38 (5) ~~Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid~~
39 ~~waste, Amendment (Five Year) — \$30,000.~~
- 40 (5a) ~~Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid~~
41 ~~waste, Amendment (Ten Year) — \$57,000.~~
- 42 (6) ~~Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid~~
43 ~~waste, Modification (Five Year) — \$3,000.~~
- 44 (6a) ~~Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid~~
45 ~~waste, Major Modification (Ten Year) — \$15,000.~~
- 46 (7) ~~Construction and Demolition Landfill accepting less than 100,000 tons/year~~
47 ~~of solid waste, New Permit (Five Year) — \$15,000.~~
- 48 (7a) ~~Construction and Demolition Landfill accepting less than 100,000 tons/year~~
49 ~~of solid waste, New Permit (Ten Year) — \$22,500.~~
- 50 (8) ~~Construction and Demolition Landfill accepting less than 100,000 tons/year~~
51 ~~of solid waste, Amendment (Five Year) — \$9,000.~~

- 1 (8a) Construction and Demolition Landfill accepting less than 100,000 tons/year
2 of solid waste, Amendment (Ten Year) — \$16,500.
- 3 (9) Construction and Demolition Landfill accepting less than 100,000 tons/year
4 of solid waste, Modification (Five Year) — \$1,500.
- 5 (9a) Construction and Demolition Landfill accepting less than 100,000 tons/year
6 of solid waste, Major Modification (Ten Year) — \$4,500.
- 7 (10) Construction and Demolition Landfill accepting 100,000 tons/year or more
8 of solid waste, New Permit (Five Year) — \$30,000.
- 9 (10a) Construction and Demolition Landfill accepting 100,000 tons/year or more
10 of solid waste, New Permit (Ten Year) — \$46,000.
- 11 (11) Construction and Demolition Landfill accepting 100,000 tons/year or more
12 of solid waste, Amendment (Five Year) — \$18,500.
- 13 (11a) Construction and Demolition Landfill accepting 100,000 tons/year or more
14 of solid waste, Amendment (Ten Year) — \$34,500.
- 15 (12) Construction and Demolition Landfill accepting 100,000 tons/year or more
16 of solid waste, Modification (Five Year) — \$2,500.
- 17 (12a) Construction and Demolition Landfill accepting 100,000 tons/year or more
18 of solid waste, Major Modification (Ten Year) — \$9,250.
- 19 (13) Industrial Landfill accepting less than 100,000 tons/year of solid waste, New
20 Permit (Five Year) — \$15,000.
- 21 (13a) Industrial Landfill accepting less than 100,000 tons/year of solid waste, New
22 Permit (Ten Year) — \$22,500.
- 23 (14) Industrial Landfill accepting less than 100,000 tons/year of solid waste,
24 Amendment (Five Year) — \$9,000.
- 25 (14a) Industrial Landfill accepting less than 100,000 tons/year of solid waste,
26 Amendment (Ten Year) — \$16,500.
- 27 (15) Industrial Landfill accepting less than 100,000 tons/year of solid waste,
28 Modification (Five Year) — \$1,500.
- 29 (15a) Industrial Landfill accepting less than 100,000 tons/year of solid waste,
30 Major Modification (Ten Year) — \$4,500.
- 31 (16) Industrial Landfill accepting 100,000 tons/year or more of solid waste, New
32 Permit (Five Year) — \$30,000.
- 33 (16a) Industrial Landfill accepting 100,000 tons/year or more of solid waste, New
34 Permit (Ten Year) — \$46,000.
- 35 (17) Industrial Landfill accepting 100,000 tons/year or more of solid waste,
36 Amendment (Five Year) — \$18,500.
- 37 (17a) Industrial Landfill accepting 100,000 tons/year or more of solid waste,
38 Amendment (Ten Year) — \$34,500.
- 39 (18) Industrial Landfill accepting 100,000 tons/year or more of solid waste,
40 Modification (Five Year) — \$2,500.
- 41 (18a) Industrial Landfill accepting 100,000 tons/year or more of solid waste,
42 Major Modification (Ten Year) — \$9,250.
- 43 (19) Tire Monofill, New Permit — \$1,750.
- 44 (19a) Tire Monofill, New Permit (Ten Year) — \$2,500.
- 45 (20) Tire Monofill, Amendment — \$1,250.
- 46 (20A) Tire Monofill, Amendment (Ten Year) — \$2,000.
- 47 (21) Tire Monofill, Modification — \$500.
- 48 (21A) Tire Monofill, Major Modification — \$625.
- 49 (22) Treatment and Processing, New Permit — \$1,750.
- 50 (23) Treatment and Processing, Amendment — \$1,250.
- 51 (24) Treatment and Processing, Modification — \$500.

- 1 ~~(25) Transfer Station, New Permit (Five Year) — \$5,000.~~
 2 ~~(25a) Transfer Station, New Permit (Ten Year) — \$7,500.~~
 3 ~~(26) Transfer Station, Amendment (Five Year) — \$3,000.~~
 4 ~~(26a) Transfer Station, Amendment (Ten Year) — \$5,500.~~
 5 ~~(27) Transfer Station, Modification (Five Year) — \$500.~~
 6 ~~(27a) Transfer Station, Major Modification (Ten Year) — \$1,500.~~
 7 ~~(28) Incinerator, New Permit — \$1,750.~~
 8 ~~(29) Incinerator, Amendment — \$1,250.~~
 9 ~~(30) Incinerator, Modification — \$500.~~
 10 ~~(31) Large Compost Facility, New Permit — \$1,750.~~
 11 ~~(32) Large Compost Facility, Amendment — \$1,250.~~
 12 ~~(33) Large Compost Facility, Modification — \$500.~~
 13 ~~(34) Land Clearing and Inert, New Permit — \$1,000.~~
 14 ~~(35) Land Clearing and Inert, Amendment — \$500.~~
 15 ~~(36) Land Clearing and Inert, Modification — \$250.~~
- 16 ~~(d) A permitted solid waste management facility shall pay an annual permit fee on or~~
 17 ~~before 1 August of each year according to the following schedule:~~
- 18 ~~(1) Municipal Solid Waste Landfill — \$3,500.~~
 19 ~~(2) Post-Closure Municipal Solid Waste Landfill — \$1,000.~~
 20 ~~(3) Construction and Demolition Landfill — \$2,750.~~
 21 ~~(4) Post-Closure Construction and Demolition Landfill — \$500.~~
 22 ~~(5) Industrial Landfill — \$2,750.~~
 23 ~~(6) Post-Closure Industrial Landfill — \$500.~~
 24 ~~(7) Transfer Station — \$750.~~
 25 ~~(8) Treatment and Processing Facility — \$500.~~
 26 ~~(9) Tire Monofill — \$500.~~
 27 ~~(10) Incinerator — \$500.~~
 28 ~~(11) Large Compost Facility — \$500.~~
 29 ~~(12) Land Clearing and Inert Debris Landfill — \$500.~~
- 30 ~~(d1) A permitted solid waste management facility shall pay an annual permit fee on or~~
 31 ~~before August 1 of each year according to the following schedule:~~
- 32 ~~(1) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of~~
 33 ~~solid waste — \$7,500.~~
 34 ~~(2) Municipal Solid Waste Landfill accepting 100,000 tons/year or more but less~~
 35 ~~than 250,000 tons/year of solid waste — \$12,000.~~
 36 ~~(3) Municipal Solid Waste Landfill accepting 250,000 tons/year or more of solid~~
 37 ~~waste — \$20,000.~~
 38 ~~(4) Post-Closure Municipal Solid Waste Landfill — \$1,000.~~
 39 ~~(5) Construction and Demolition Landfill accepting less than 25,000 tons/year~~
 40 ~~of solid waste — \$6,000.~~
 41 ~~(6) Construction and Demolition Landfill accepting 25,000 tons/year or more of~~
 42 ~~solid waste — \$9,250.~~
 43 ~~(7) Post-Closure Construction and Demolition Landfill — \$500.~~
 44 ~~(8) Industrial Landfill accepting less than 100,000 tons/year of solid waste —~~
 45 ~~\$7,500.~~
 46 ~~(9) Industrial Landfill accepting 100,000 tons/year or more of solid waste —~~
 47 ~~\$15,000.~~
 48 ~~(10) Post-Closure Industrial Landfill — \$500.~~
 49 ~~(11) Transfer Station accepting less than 25,000 tons/year of solid waste — \$750.~~
 50 ~~(12) Transfer Station accepting 25,000 tons/year or more of solid waste — \$1,500.~~
 51 ~~(13) Treatment and Processing Facility — \$750.~~

1 (14) Tire Monofill – \$6,000.

2 (15) Incinerator – \$750.

3 (16) Large Compost Facility – \$750.

4 (17) Land Clearing and Inert Debris Landfill – \$750.

5 (d2) Upon submission of an application for a new permit, an applicant shall pay an
6 application fee in the amount of ten percent (10%) of the annual permit fee imposed for that
7 type of solid waste management facility as identified in subdivisions (1) through (17) of
8 subsection (d1) of this section.

9 "

10 **SECTION 14.20.(d)** G.S. 130A-295.3 reads as rewritten:

11 "**§ 130A-295.3. Environmental compliance review requirements for applicants and**
12 **permit holders.**

13 ...

14 (b) The Department shall conduct an environmental compliance review of each
15 applicant for a new ~~permit, permit renewal, permit~~ and permit amendment under this Article.
16 The environmental compliance review shall evaluate the environmental compliance history of
17 the applicant for a period of five years prior to the date of the application and may cover a
18 longer period at the discretion of the Department. The environmental compliance review of an
19 applicant may include consideration of the environmental compliance history of the parents,
20 subsidiaries, or other affiliates of an applicant or parent that is a business entity, including any
21 business entity or joint venturer with a direct or indirect interest in the applicant, and other
22 facilities owned or operated by any of them. The Department shall determine the scope of the
23 review of the environmental compliance history of the applicant, parents, subsidiaries, or other
24 affiliates of the applicant or parent, including any business entity or joint venturer with a direct
25 or indirect interest in the applicant, and of other facilities owned or operated by any of them.
26 An applicant for a permit shall provide environmental compliance history information for each
27 facility, business entity, joint venture, or other undertaking in which any of the persons listed in
28 this subsection is or has been an owner, operator, officer, director, manager, member, or
29 partner, or in which any of the persons listed in this subsection has had a direct or indirect
30 interest as requested by the Department.

31 "

32 **SECTION 14.20.(e)** This section becomes effective August 1, 2015.
33 G.S. 130A-294(b1)(2), as amended by subsection (a) of this section, applies to franchise
34 agreements executed on or after August 1, 2015. The remainder of G.S. 130A-294, as amended
35 by subsection (a) of this section, and G.S. 130A-295.8, as amended by subsection (c) of this
36 section, apply to (i) existing sanitary landfills and transfer stations, with a valid permit issued
37 before the date this act becomes effective, when that permit is next subject to renewal after July
38 1, 2016, and (ii) new sanitary landfills and transfer stations, for applications submitted on or
39 after July 1, 2016.

40

41 **ENVIRONMENTAL REVIEW COMMISSION STUDIES**

42 **SECTION 14.21.(a)** The Environmental Review Commission shall convene a
43 stakeholder working group to study local government authority over solid waste management
44 matters, including (i) the authority to enact ordinances concerning collection and processing of
45 solid waste generated within their jurisdictions, as well as their authority to charge fees for such
46 services; (ii) an examination of costs to local governments for providing solid waste collection
47 and processing services to citizens; (iii) whether efficiencies and cost reductions could be
48 realized through privatization of such services, and what impacts might result from
49 privatization, including any bearing on local government financing of currently sited solid
50 waste management facilities; and (iv) any other issue the Commission deems relevant. In the
51 conduct of this study, the Commission shall consult with representatives of the League of

1 Municipalities, the Association of County Commissioners, the Local Government Commission,
2 faculty from the School of Government at the University of North Carolina at Chapel Hill, as
3 well as private waste management interests, at a minimum. The Division of Waste
4 Management and the Division of Environmental Assistance and Customer Service of the
5 Department of Environment and Natural Resources shall provide any information and
6 personnel requested by the Commission in the conduct of a study required by this section.

7 **SECTION 14.21.(b)** The Environmental Review Commission shall study the use
8 of new technologies and strategies, including the use of integrated and mobile aerosolization
9 systems, to dewater leachate and other forms of wastewater for the purpose of reducing the
10 burden and cost of disposal at the site where it is generated. The Commission shall determine
11 the efficiency, cost-effectiveness, and environmental impact of each studied technology and
12 strategy. The Division of Waste Management and the Division of Water Resources of the
13 Department of Environment and Natural Resources shall provide any information and
14 personnel requested by the Commission in the conduct of a study required by this section.

15 16 **PRE-1983 LANDFILL CLEANUP PRIVATIZATION**

17 **SECTION 14.22.(a)** Legislative Findings. – The General Assembly makes the
18 following findings:

- 19 (1) Section 5 of Article XIV of the North Carolina Constitution sets out the
20 conservation and protection of State lands and waters as a policy of the
21 State, and a more expeditious method for remediation and reuse of pre-1983
22 landfill sites and other State-identified contaminated sites is in furtherance of
23 that policy.
- 24 (2) Despite past legislative directives, a dedicated source of revenue, and a
25 considerable fund balance, little progress has been made in active cleanup of
26 these landfill sites.
- 27 (3) Qualified private firms should be given the opportunity to remediate
28 pre-1983 landfills and other State-identified contamination sites.
- 29 (4) Implementation of a site assessment and remediation program based on
30 requests for proposal from private firms for the 10 highest-priority pre-1983
31 landfill sites will result in multiple benefits to the State, including (i)
32 reducing known environmental hazards that are associated with the many
33 identified sites across the State, (ii) decreasing the State's economic liability
34 for these sites, (iii) promoting economic growth through the job creation
35 associated with returning these sites to beneficial and productive use, and
36 (iv) establishing an efficient, cost-effective model for other State projects.

37 **SECTION 14.22.(b)** G.S. 130A-310.6 is amended by adding a new subsection to
38 read:

39 "(h) The Department shall implement an ongoing program that provides for the
40 expeditious assessment and, where indicated as necessary based on assessment and other data,
41 the conduct of site remediation by qualified private entities at no less than 10 of the pre-1983
42 landfill sites that have been identified by the Department as being among the 100 sites rated
43 highest in priority under subsection (c) of this section. The program shall include the following
44 activities to be undertaken by the Department:

- 45 (1) Contract via issuance of a Request for Proposal with one or more qualified
46 private entities who have prequalified under procedures established by the
47 Department for (i) remaining assessment and contamination delineation
48 activities necessary to identify those sites within the 100 highest-priority
49 sites where completion of site remediation will yield maximum health,
50 safety, and economic benefits based on an evaluation of potential beneficial
51 and productive use of the site, impact of the unremediated site on uses of

1 surrounding property, and other pertinent factors and (ii) remediation of the
2 selected sites utilizing private sector best practices for maximizing efficacy
3 and cost-effectiveness of the remedial alternative selected.

- 4 (2) Develop requirements for full-time monitoring of project sites to ensure that
5 remedial activities are conducted in a safe and environmentally protective
6 manner and performed to a health-based, predetermined risk standard based
7 on the proposed subsequent use of the properties."

8 **SECTION 14.22.(c)** G.S. 143-64.34 reads as rewritten:

9 **"§ 143-64.34. Exemption of certain projects.**

10 (a) State capital improvement projects under the jurisdiction of the State Building
11 Commission, capital improvement projects of The University of North Carolina, and
12 community college capital improvement projects, where the estimated expenditure of public
13 money is less than five hundred thousand dollars (\$500,000), are exempt from the provisions of
14 this Article.

15 (b) Pre-1983 landfill sites remediated pursuant to G.S. 130A-310.6 are exempt from the
16 provisions of this Article."

17 **SECTION 14.22.(d)** The Department of Environment and Natural Resources shall
18 seek United States Environmental Protection Agency approval for implementation of all
19 elements of the program required by this section. On or before December 31, 2015, the
20 Department shall develop and submit any Memoranda of Agreement, delineations of
21 programmatic responsibility, procedure for coordination, and other information that the United
22 States Environmental Protection Agency may require in order to effectuate the elements of the
23 program required by this section.

24 **SECTION 14.22.(e)** If approval for implementation of all elements of the program
25 required by this section is received by the United States Environmental Protection Agency, the
26 Department of Environment and Natural Resources shall issue the Request for Proposal
27 required by G.S. 130A-310.6(h), as enacted by subsection (b) of this section, no later than 60
28 days of receipt of that approval.

29 **SECTION 14.22.(f)** The Department shall review and evaluate other states'
30 requirements, programs, and policies for remediation of sites similar to those classified as
31 "pre-1983 landfills" as defined by the State with a focus on other states that may have
32 implemented requirements, programs, and policies that are resulting in safe remediation of such
33 sites and that are performed in a more cost-effective and expeditious manner than that
34 performed in North Carolina under traditional remediation requirements, programs, and
35 policies and report its findings, including recommendations for further legislative action, to the
36 chairs of the House of Representatives Appropriations Committee on Agriculture and Natural
37 and Economic Resources, the Senate Appropriations Committee on Natural and Economic
38 Resources, and the Fiscal Research Division prior to May 15, 2016.

39 **COMPENSATORY MITIGATION REQUIREMENTS**

40 **SECTION 14.23.(a)** The Department of Environment and Natural Resources,
41 Division of Mitigation Services, shall develop a program to increase the State's ability to utilize
42 private mitigation banks to satisfy compensatory mitigation requirements of the State. The
43 program shall include all of the following components:

- 44 (1) Thirty months after the effective date of this act, the Division of Mitigation
45 Services shall cease acceptance of fees for governmental and
46 nongovernmental entities in lieu of mitigation for stream, wetland, riparian
47 buffer, and nutrient impacts permitted to occur in the Neuse, Cape Fear, and
48 Tar-Pamlico River Basins.
49 (2) The Department, with the concurrence of the Environmental Management
50 Commission (Commission), may cease acceptance of fees in lieu of
51

1 mitigation within additional river basins after June 30, 2018, provided the
2 public is notified at least 24 months in advance of the cessation of service.

3 (3) In the event of unforeseen, unique, or exigent circumstances and upon the
4 request of the Secretary of Commerce or the Secretary of Transportation, the
5 Department may direct the Division of Mitigation Services to accept fees in
6 lieu of mitigation to support permits for projects owned or sponsored by
7 those Departments.

8 (4) The Division of Mitigation Services shall continue to provide watershed
9 planning statewide under a fee structure set by the Commission.

10 (5) The Division of Mitigation Services will manage the inventory and
11 utilization of all existing mitigation credits held by the North Carolina
12 Department of Transportation and shall also oversee and direct the future
13 acquisition of mitigation credits by that Department.

14 **SECTION 14.23.(b)** No later than October 1, 2015, the Commission shall adopt
15 temporary rules consistent with this subsection. The temporary rules shall remain in effect until
16 permanent rules that replace the temporary rules become effective.
17

18 **PETITION FOR WETLANDS MITIGATION FLEXIBILITY**

19 **SECTION 14.24.(a)** No later than October 1, 2015, the Department of
20 Environment and Natural Resources shall petition the Wilmington District, the South Atlantic
21 District, and the Headquarters of the United States Army Corps of Engineers (the Corps
22 Offices) to allow for greater flexibility and opportunity to perform wetlands mitigation outside
23 of the eight-digit Hydrologic Unit Code (HUC) where development will occur. The Department
24 shall seek this greater flexibility and opportunity for mitigation for both public and private
25 development. The Department shall request that the Corps Offices review the flexibility and
26 opportunities for mitigation allowed by other Districts of the United States Army Corps of
27 Engineers, both within the South Atlantic District and nationwide.

28 **SECTION 14.24.(b)** The Department shall report on its progress in petitioning the
29 Corps Offices as required by subsection (a) of this section to the Environmental Review
30 Commission, the chairs of the Senate Appropriations Committee on Natural and Economic
31 Resources and the House Appropriations Committee on Agriculture and Natural and Economic
32 Resources, and the Fiscal Research Division no later than January 1, 2016.
33

34 **SECTION 404 PERMITTING PROGRAM DELEGATION**

35 **SECTION 14.25.** The funds appropriated in this act for Section 404 Program
36 delegation application shall be used by the Department of Environment and Natural Resources
37 to issue a Request for Proposal for a consultant to plan and prepare an application for the
38 assumption by the State of administration of the Section 404 permitting program under the
39 Federal Water Pollution Control Act for North Carolina from the United States Army Corps of
40 Engineers (Corps).
41

42 **REPEAL SEDIMENTATION CONTROL COMMISSION AND TRANSFER** 43 **RESPONSIBILITIES TO THE ENVIRONMENTAL MANAGEMENT** 44 **COMMISSION AND REFORM CIVIL PENALTIES UNDER THE** 45 **SEDIMENTATION POLLUTION CONTROL ACT**

46 **SECTION 14.26.(a)** Part 8 of Article 7 of Chapter 143B of the General Statutes is
47 repealed.

48 **SECTION 14.26.(b)** G.S. 113A-52(2) reads as rewritten:

49 "(2) "Commission" means the ~~North—Carolina—Sedimentation~~
50 ~~Control~~ Environmental Management Commission."
51

SECTION 14.26.(c) G.S. 113A-54.1(c) reads as rewritten:

1 **"§ 113A-54.1. Approval of erosion control plans.**

2 ...
3 (c) The Commission shall disapprove an erosion and sedimentation control plan if
4 implementation of the plan would result in a violation of rules adopted by the ~~Environmental~~
5 ~~Management-Commission~~ to protect riparian buffers along surface waters. The Director of the
6 Division of Energy, Mineral, and Land Resources may disapprove an erosion and
7 sedimentation control plan or disapprove a transfer of a plan under subsection (d1) of this
8 section upon finding that an applicant or a parent, subsidiary, or other affiliate of the applicant:

- 9 (1) Is conducting or has conducted land-disturbing activity without an approved
10 plan, or has received notice of violation of a plan previously approved by the
11 Commission or a local government pursuant to this Article and has not
12 complied with the notice within the time specified in the notice;
13 (2) Has failed to pay a civil penalty assessed pursuant to this Article or a local
14 ordinance adopted pursuant to this Article by the time the payment is due;
15 (3) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any
16 criminal provision of a local ordinance adopted pursuant to this Article; or
17 (4) Has failed to substantially comply with State rules or local ordinances and
18 regulations adopted pursuant to this Article."

19 **SECTION 14.26.(d)** G.S. 113A-57(1) reads as rewritten:

20 **"§ 113A-57. Mandatory standards for land-disturbing activity.**

21 No land-disturbing activity subject to this Article shall be undertaken except in accordance
22 with the following mandatory requirements:

- 23 (1) No land-disturbing activity during periods of construction or improvement to
24 land shall be permitted in proximity to a lake or natural watercourse unless a
25 buffer zone is provided along the margin of the watercourse of sufficient
26 width to confine visible siltation within the twenty-five percent (25%) of the
27 buffer zone nearest the land-disturbing activity. Waters that have been
28 classified as trout waters by the ~~Environmental Management-Commission~~
29 shall have an undisturbed buffer zone 25 feet wide or of sufficient width to
30 confine visible siltation within the twenty-five percent (25%) of the buffer
31 zone nearest the land-disturbing activity, whichever is greater. Provided,
32 however, that the ~~Sedimentation Control-Commission~~ may approve plans
33 which include land-disturbing activity along trout waters when the duration
34 of said disturbance would be temporary and the extent of said disturbance
35 would be minimal. This subdivision shall not apply to a land-disturbing
36 activity in connection with the construction of facilities to be located on,
37 over, or under a lake or natural watercourse."

38 **SECTION 14.26.(e)** G.S. 113A-61(b1) reads as rewritten:

39 "(b1) A local government shall condition approval of a draft erosion and sedimentation
40 control plan upon the applicant's compliance with federal and State water quality laws,
41 regulations, and rules. A local government shall disapprove an erosion and sedimentation
42 control plan if implementation of the plan would result in a violation of rules adopted by the
43 ~~Environmental Management-Commission~~ to protect riparian buffers along surface waters. A
44 local government may disapprove an erosion and sedimentation control plan or disapprove a
45 transfer of a plan under subsection (b3) of this section upon finding that an applicant or a
46 parent, subsidiary, or other affiliate of the applicant:

- 47 (1) Is conducting or has conducted land-disturbing activity without an approved
48 plan, or has received notice of violation of a plan previously approved by the
49 Commission or a local government pursuant to this Article and has not
50 complied with the notice within the time specified in the notice.

- 1 (2) Has failed to pay a civil penalty assessed pursuant to this Article or a local
2 ordinance adopted pursuant to this Article by the time the payment is due.
- 3 (3) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any
4 criminal provision of a local ordinance adopted pursuant to this Article.
- 5 (4) Has failed to substantially comply with State rules or local ordinances and
6 regulations adopted pursuant to this Article."

7 **SECTION 14.26.(f)** G.S. 113A-125(c) reads as rewritten:

8 "(c) Within the meaning of this section, "existing regulatory permits" include dredge and
9 fill permits issued pursuant to G.S. 113-229; sand dune permits issued pursuant to G.S. 104B-4;
10 air pollution control and water pollution control permits, special orders or certificates issued
11 pursuant to G.S. 143-215.1 and 143-215.2, or any other permits, licenses, authorizations,
12 approvals or certificates issued by the Board of Water and Air Resources pursuant to Chapter
13 143; capacity use area permits issued pursuant to G.S. 143-215.15; final approval of dams
14 pursuant to G.S. 143-215.30; floodway permits issued pursuant to G.S. 143-215.54; water
15 diversion authorizations issued pursuant to G.S. 143-354(c); oil refinery permits issued
16 pursuant to G.S. 143-215.99; mining operating permits issued pursuant to G.S. 74-51;
17 permissions for construction of wells issued pursuant to G.S. 87-88; and rules concerning
18 pesticide application within the coastal area issued pursuant to G.S. 143-458; approvals by the
19 Department of Health and Human Services of plans for water supply, drainage or sewerage,
20 pursuant to G.S. 130-161.1 and 130-161.2; standards and approvals for solid waste disposal
21 sites and facilities, adopted by the Department of Health and Human Services pursuant to
22 Chapter 130, Article 13B; permits relating to sanitation of shellfish, crustacea or scallops issued
23 pursuant to Chapter 130, Articles 14A or 14B; permits, approvals, authorizations and rules
24 issued by the Department of Health and Human Services pursuant to Articles 23 or 24 of
25 Chapter 130 with reference to mosquito control programs or districts; any permits, licenses,
26 authorizations, rules, approvals or certificates issued by the Department of Health and Human
27 Services relating to septic tanks or water wells; oil or gas well rules and orders issued for the
28 protection of environmental values or resources pursuant to G.S. 113-391; a certificate of
29 public convenience and necessity issued by the State Utilities Commission pursuant to Chapter
30 62 for any public utility plant or system, other than a carrier of persons or property; permits,
31 licenses, leases, options, authorization or approvals relating to the use of State forestlands, State
32 parks or other state-owned land issued by the State Department of Administration, the State
33 Department of Natural and Economic Resources or any other State department, agency or
34 institution; any approvals of erosion and sedimentation control plans that may be issued by the
35 ~~North Carolina Sedimentation Control~~ Commission pursuant to G.S. 113A-60 or 113A-61; and
36 any permits, licenses, authorizations, rules, approvals or certificates issued by any State agency
37 pursuant to any environmental protection legislation not specified in this subsection that may
38 be enacted prior to the permit changeover date."

39 **SECTION 14.26.(g)** G.S. 143B-279.3(b) reads as rewritten:

40 "(b) All functions, powers, duties, and obligations previously vested in the following
41 commissions, boards, councils, and committees of the following departments are transferred to
42 and vested in the Department of Environment and Natural Resources by a Type II transfer, as
43 defined in G.S. 143A-6:

- 44 (1) Repealed by Session Laws 1993, c. 501, s. 27.
- 45 (2) Radiation Protection Commission, Department of Health and Human
46 Services.
- 47 (3) Repealed by Session Laws 1997-443, s. 11A.6.
- 48 (4) Water Treatment Facility Operators Board of Certification, Department of
49 Health and Human Services.
- 50 (5) to (8) Repealed by Session Laws 1997-443, s. 11A.6.

- 1 (9) Coastal Resources Commission, Department of Natural Resources and
2 Community Development.
- 3 (10) Environmental Management Commission, Department of Natural Resources
4 and Community Development.
- 5 (11) Air Quality Council, Department of Natural Resources and Community
6 Development.
- 7 (12) Wastewater Treatment Plant Operators Certification Commission,
8 Department of Natural Resources and Community Development.
- 9 (13) Repealed by Session Laws 2011-145, s. 13.25(e), effective July 1, 2011.
- 10 (14) North Carolina Mining and Energy Commission, Department of Natural
11 Resources and Community Development.
- 12 (15) Advisory Committee on Land Records, Department of Natural Resources
13 and Community Development.
- 14 (16) Marine Fisheries Commission, Department of Natural Resources and
15 Community Development.
- 16 (17) Parks and Recreation Council, Department of Natural Resources and
17 Community Development.
- 18 (18) Repealed by Session Laws 2013-360, s. 14.3(j), effective August 1, 2013.
- 19 (19) North Carolina Trails Committee, Department of Natural Resources and
20 Community Development.
- 21 ~~(20) Sedimentation Control Commission, Department of Natural Resources and
22 Community Development.~~
- 23 (21) Repealed by Session Laws 2011-145, s. 13.22A(d), effective July 1, 2011.
- 24 (22) North Carolina Zoological Park Council, Department of Natural Resources
25 and Community Development.
- 26 (23) Repealed by Session Laws 1997-286, s. 6."

27 **SECTION 14.26.(h)** G.S. 150B-19.3 reads as rewritten:

28 **"§ 150B-19.3. Limitation on certain environmental rules.**

29 (a) An agency authorized to implement and enforce State and federal environmental
30 laws may not adopt a rule for the protection of the environment or natural resources that
31 imposes a more restrictive standard, limitation, or requirement than those imposed by federal
32 law or rule, if a federal law or rule pertaining to the same subject matter has been adopted,
33 unless adoption of the rule is required by one of the subdivisions of this subsection. A rule
34 required by one of the following subdivisions of this subsection shall be subject to the
35 provisions of G.S. 150B-21.3(b1) as if the rule received written objections from 10 or more
36 persons under G.S. 150B-21.3(b2):

- 37 (1) A serious and unforeseen threat to the public health, safety, or welfare.
- 38 (2) An act of the General Assembly or United States Congress that expressly
39 requires the agency to adopt rules.
- 40 (3) A change in federal or State budgetary policy.
- 41 (4) A federal regulation required by an act of the United States Congress to be
42 adopted or administered by the State.
- 43 (5) A court order.

44 (b) For purposes of this section, "an agency authorized to implement and enforce State
45 and federal environmental laws" means any of the following:

- 46 (1) The Department of Environment and Natural Resources created pursuant to
47 G.S. 143B-279.1.
- 48 (2) The Environmental Management Commission created pursuant to
49 G.S. 143B-282.
- 50 (3) The Coastal Resources Commission established pursuant to G.S. 113A-104.
- 51 (4) The Marine Fisheries Commission created pursuant to G.S. 143B-289.51.

- 1 (5) The Wildlife Resources Commission created pursuant to G.S. 143-240.
 2 (6) The Commission for Public Health created pursuant to G.S. 130A-29.
 3 ~~(7) The Sedimentation Control Commission created pursuant to G.S. 143B-298.~~
 4 (8) **(Effective until August 1, 2015)** The North Carolina Mining and Energy
 5 Commission created pursuant to G.S. 143B-293.1.
 6 (8) **(Effective August 1, 2015)** The North Carolina Oil and Gas Commission
 7 created pursuant to G.S. 143B-293.1.
 8 (9) The Pesticide Board created pursuant to G.S. 143-436."

9 **SECTION 14.26.(i)** G.S. 143B-282 reads as rewritten:

10 **"§ 143B-282. Environmental Management Commission – creation; powers and duties.**

11 (a) There is hereby created the Environmental Management Commission of the
 12 Department of Environment and Natural Resources with the power and duty to promulgate
 13 rules to be followed in the protection, preservation, and enhancement of the water and air
 14 resources of the State.

- 15 (1) Within the limitations of G.S. 143-215.9 concerning industrial health and
 16 safety, the Environmental Management Commission shall have all of the
 17 following powers and duties:

18 ...

19 w. To, in cooperation with the Secretary of Transportation and Highway
 20 Safety and other appropriate State and federal agencies, develop,
 21 promulgate, publicize, and administer a comprehensive State erosion
 22 and sedimentation control program pursuant to Article 4 of Chapter
 23 113A of the General Statutes.

24 x. To assist local governments in the development of erosion and
 25 sedimentation programs pursuant to G.S. 113A-60.

26 y. To assist and encourage other State agencies in the development of
 27 erosion and sedimentation control programs pursuant to
 28 G.S. 113A-56.

29 z. To develop recommended methods of control of sedimentation and
 30 prepare and make available for distribution publications and other
 31 materials dealing with sedimentation control techniques pursuant to
 32 G.S. 113A-54.

- 33 (2) The Environmental Management Commission shall adopt rules:

34 ...

35 m. For the control of erosion and sedimentation pursuant to
 36 G.S. 113A-54.

37"

38 **SECTION 14.26.(j)** Notwithstanding G.S. 113A-54(b), the Environmental
 39 Management Commission shall review the rules adopted by the Sedimentation Control
 40 Commission and amend or repeal any such rules that the Environmental Management
 41 Commission determines to be outdated, unnecessary, duplicative, or confusing. The
 42 Environmental Management Commission shall report its findings and any actions taken
 43 pursuant to this section to the Environmental Review Commission on or before January 1,
 44 2016.

45 **SECTION 14.26.(k)** G.S. 113A-54 is amended by adding a new subsection to
 46 read:

47 "(g) The Commission is authorized to make the final decision on a request for the
 48 remission of a civil penalty under G.S. 113A-64.2."

49 **SECTION 14.26.(l)** G.S. 113A-64(a) reads as rewritten:

50 "(a) Civil Penalties. –

1 (1) Any person who violates any of the provisions of this Article or any
2 ordinance, rule, or order adopted or issued pursuant to this Article by the
3 Commission or by a local government, or who initiates or continues a
4 land-disturbing activity for which an erosion and sedimentation control plan
5 is required except in accordance with the terms, conditions, and provisions
6 of an approved plan, is subject to a civil penalty. The maximum civil penalty
7 for a violation is five thousand dollars (\$5,000). A civil penalty may be
8 assessed from the date of the violation. Each day of a continuing violation
9 shall constitute a separate violation. When the person has not been assessed
10 any civil penalty under this subsection for any previous violation and that
11 person abated continuing environmental damage resulting from the violation
12 within 180 days from the date of the notice of violation, the maximum
13 cumulative total civil penalty assessed under this subsection for all violations
14 associated with the land-disturbing activity for which the erosion and
15 sedimentation control plan is required is twenty-five thousand dollars
16 (\$25,000).

17 (2) The Secretary or a local government that administers an erosion and
18 sedimentation control program approved under G.S. 113A-60 shall
19 determine the amount of the civil penalty and shall notify the person who is
20 assessed the civil penalty of the amount of the ~~penalty and penalty~~, the reason
21 for assessing the ~~penalty-penalty~~, the option available to that person to
22 request a remission of the civil penalty under G.S. 113A-64.2, the date of the
23 deadline for that person to make the request regarding this particular penalty,
24 and, when that person has not been assessed any civil penalty under this
25 section for any previous violation, the date of the deadline for that person to
26 abate continuing environmental damage resulting from the violation in order
27 to be subject to the maximum cumulative total civil penalty under
28 subdivision (1) of this subsection. The notice of assessment shall be served
29 by any means authorized under G.S. 1A-1, Rule 4, and shall direct the
30 violator to either pay the assessment or contest the assessment within 30
31 days by filing a petition for a contested case under Article 3 of Chapter 150B
32 of the General Statutes. If a violator does not pay a civil penalty assessed by
33 the Secretary within 30 days after it is due, the Department shall request the
34 Attorney General to institute a civil action to recover the amount of the
35 assessment. If a violator does not pay a civil penalty assessed by a local
36 government within 30 days after it is due, the local government may institute
37 a civil action to recover the amount of the assessment. The civil action may
38 be brought in the superior court of any county where the violation occurred
39 or the violator's residence or principal place of business is located. A civil
40 action must be filed within three years of the date the assessment was due.
41 An assessment that is not contested is due when the violator is served with a
42 notice of assessment. An assessment that is contested is due at the
43 conclusion of the administrative and judicial review of the assessment.

44"

45 **SECTION 14.26.(m)** Article 4 of Chapter 113A of the General Statutes is
46 amended by adding a new section to read:

47 **"§ 113A-64.2. Remission of civil penalties.**

48 (a) Notwithstanding G.S. 143B-282.1(c), the Commission's Committee on Civil Penalty
49 Remissions shall evaluate requests for remission of civil penalties assessed under this Article in
50 accordance with this section.

1 (b) A request for remission of a civil penalty imposed under G.S. 113A-64 may be filed
2 with the Commission within 60 days of receipt of the notice of assessment. A remission request
3 must be accompanied by a waiver of the right to a contested case hearing pursuant to Chapter
4 150B of the General Statutes and a stipulation of the facts on which the assessment was based.

5 (c) The following factors shall be considered in determining whether a civil penalty
6 remission request will be approved:

7 (1) Whether one or more of the civil penalty assessment factors in
8 G.S. 113A-64(a)(3) were wrongly applied to the detriment of the petitioner.

9 (2) Whether the petitioner promptly abated continuing environmental damage
10 resulting from the violation.

11 (3) Whether the violation was inadvertent or a result of an accident.

12 (4) Whether the petitioner had been assessed civil penalties for any previous
13 violations.

14 (5) Whether payment of the civil penalty will prevent payment for necessary
15 remedial actions or would otherwise create a significant financial hardship.

16 (6) The assessed property tax valuation of the petitioner's property upon which
17 the violation occurred, excluding the value of any structures located on the
18 property.

19 (d) The petitioner has the burden of providing information concerning the financial
20 impact of a civil penalty on the petitioner and the burden of showing the petitioner's financial
21 hardship.

22 (e) The Commission may remit the entire amount of the penalty only when the
23 petitioner has not been assessed civil penalties for previous violations and payment of the civil
24 penalty will prevent payment for necessary remedial actions.

25 (f) The Commission may not impose a penalty under this section that is in excess of the
26 civil penalty imposed by the Department."

27 **SECTION 14.26.(n)** G.S. 113A-61.1(c) reads as rewritten:

28 "(c) If the Secretary, a local government that administers an erosion and sedimentation
29 control program approved under G.S. 113A-60, or other approving authority determines that
30 the person engaged in the land-disturbing activity has failed to comply with this Article, the
31 Secretary, local government, or other approving authority shall immediately serve a notice of
32 violation upon that person. The notice may be served by any means authorized under
33 G.S. 1A-1, Rule 4. A notice of violation shall specify a date by which the person must comply
34 with this Article and inform the person of the actions that need to be taken to comply with this
35 Article. Any person who fails to comply within the time specified is subject to additional civil
36 and criminal penalties for a continuing violation as provided in G.S. 113A-64. If the person
37 engaged in the land-disturbing activity has not received a previous notice of violation under this
38 section, the Department, local government, or other approving authority shall deliver the notice
39 of violation in person and shall offer assistance in developing corrective measures. Assistance
40 may be provided by referral to a technical assistance program in the Department, referral to a
41 cooperative extension program, or by the provision of written materials such as Department
42 guidance documents. If the Department, local government, or other approving authority is
43 unable to deliver the notice of violation in person within 15 days following discovery of the
44 violation, the notice of violation may be served in the manner prescribed for service of process
45 by G.S. 1A-1, Rule 4, and shall include information on how to obtain assistance in developing
46 corrective measures."

47 **SECTION 14.26.(o)** Subsections (a) through (j) of this section become effective
48 June 30, 2015. The remainder of this section is effective when this act becomes law and applies
49 to civil penalties assessed and notices of violation issued on or after that date.

1 **SECTION 14.27.** Of the funds appropriated in this act for University energy
2 centers, the sum of seven hundred ninety-four thousand one hundred forty-eight dollars
3 (\$794,148) shall be allocated to the existing energy center at North Carolina Agricultural and
4 Technical University and the sum of three hundred seventeen thousand ninety-four dollars
5 (\$317,094) shall be allocated to the University of North Carolina at Charlotte for establishment
6 of a University Energy Center. The Centers shall prioritize the use of these funds for study of
7 the beneficial reuse of coal combustion residuals.

9 **GEOLOGICAL RESEARCH FUNDS**

10 **SECTION 14.28.(a)** The funds appropriated by this act to the Department of
11 Environment and Natural Resources for geological research related to natural gas assessment
12 and development shall be used to fund a contract with a qualified private entity to perform a
13 comprehensive basin analysis on all known and potential onshore natural gas resources within
14 the State. The contract may include as part of the statewide basin analysis the digitization,
15 analysis, or reanalysis of geologic data related to natural gas exploration or development
16 opportunities, including utilization of existing seismic reflection data. The analysis shall
17 include recommendations and conclusions regarding the extent of potential natural gas-bearing
18 rocks in the State, the potential volumes of oil and gas within these basins, and additional data
19 and data analysis necessary to better quantify geographic extent, volume, and quality of
20 potential onshore oil and gas resources (together with cost estimates to acquire and process
21 these data).

22 **SECTION 14.28.(b)** The Department shall transmit the consultant's report and
23 recommendations no later than December 1, 2016, to the Environmental Review Commission;
24 the chairs of the Senate Appropriations Committee on Natural and Economic Resources and the
25 House Appropriations Committee on Agriculture, Natural, and Economic Resources; and the
26 Fiscal Research Division on the results of the study and its proposed strategy as required by
27 subsection (a) of this section, including any legislative recommendations.

29 **RESTRICTION ON CERTAIN FEDERAL GRANTS**

30 **SECTION 14.29.** The Department of Environment and Natural Resources shall not
31 apply for funding from the following grant programs in future grant cycles:

- 32 (1) SEP (State Energy Program) Competitive Grant.
- 33 (2) Clean Energy and Manufacturing.

35 **CONSOLIDATE ALL STATE ATTRACTIONS WITHIN DEPARTMENT OF 36 CULTURAL RESOURCES TO CREATE THE DEPARTMENT OF NATURAL 37 AND CULTURAL RESOURCES**

38
39 **SECTION 14.30.(a)** The Department of Cultural Resources is renamed the
40 Department of Natural and Cultural Resources, and all functions, powers, duties, and
41 obligations vested in the following programs, divisions, and entities within the Department of
42 Environment and Natural Resources are transferred to, vested in, and consolidated within the
43 Department of Natural and Cultural Resources by a Type I transfer, as defined in G.S. 143A-6:

- 44 (1) The Division of Parks and Recreation.
- 45 (2) The State Parks System, including Mount Mitchell State Park.
- 46 (3) The North Carolina Aquariums Division.
- 47 (4) The North Carolina Zoological Park.
- 48 (5) The Museum of Natural Sciences.

49 **SECTION 14.30.(b)** All functions, powers, duties, and obligations vested in the
50 following commissions, boards, councils, and committees within the Department of

1 Environment and Natural Resources are transferred to, vested in, and consolidated within the
2 Department of Natural and Cultural Resources by a Type II transfer, as defined in G.S. 143A-6:

- 3 (1) North Carolina Parks and Recreation Authority.
- 4 (2) North Carolina Trails Committee.
- 5 (3) North Carolina Zoological Park Council.
- 6 (4) Advisory Commission for North Carolina State Museum of Natural
7 Sciences.

8 **SECTION 14.30.(c)** The Department of Environment and Natural Resources is
9 renamed the Department of Environmental Quality. All references to the Department of
10 Environment and Natural Resources or the Department of Cultural Resources in acts of the
11 2015 General Assembly taking effect after the effective date of this section shall be construed
12 to refer to the Department of Environmental Quality or the Department of Natural and Cultural
13 Resources, respectively. References to duties or requirements of the Department of
14 Environment and Natural Resources with respect to entities transferred under subsections (a)
15 and (b) of this section shall be construed as duties or requirements of the Department of Natural
16 and Cultural Resources as reorganized by this section.

17 18 **RECODIFICATION OF AFFECTED STATUTES**

19 **SECTION 14.30.(d)** The following apply to any recodification pursuant to
20 subsections (e) through (k) of this section:

- 21 (1) The recodifications are of the affected statutes as rewritten by subsections (l)
22 through (r) of this section, as applicable.
- 23 (2) Prior session laws that required the Revisor of Statutes to set out certain
24 provisions as notes to the former statutes shall be set out as notes to the
25 recodified statutes.

26 **SECTION 14.30.(e)** Subchapter II of Chapter 113 of the General Statutes,
27 consisting of Article 2 and Article 2C, and G.S. 113-23 are recodified as Parts 31 and 32 of
28 Article 2 of Chapter 143B of the General Statutes as set forth in the table below:

| <u>Former Citation</u> | <u>Recodified Citation</u> |
|------------------------|----------------------------|
| 29 Article 2: | Part 31: |
| 30 G.S. 113-29 | G.S. 143B-135.10 |
| 31 G.S. 113-34 | G.S. 143B-135.12 |
| 32 G.S. 113-34.1 | G.S. 143B-135.14 |
| 33 G.S. 113-35 | G.S. 143B-135.16 |
| 34 G.S. 113-37 | G.S. 143B-135.18 |
| 35 G.S. 113-39 | G.S. 143B-135.20 |
| 36 G.S. 113-40 | G.S. 143B-135.22 |
| 37 G.S. 113-41 | G.S. 143B-135.24 |
| 38 G.S. 113-42 | G.S. 143B-135.26 |
| 39 G.S. 113-43 | G.S. 143B-135.28 |
| 40 G.S. 113-44 | G.S. 143B-135.30 |
| 41 Article 2C: | Part 32: |
| 42 G.S. 113-44.7 | G.S. 143B-135.40 |
| 43 G.S. 113-44.8 | G.S. 143B-135.42 |
| 44 G.S. 113-23 | G.S. 143B-135.43 |
| 45 G.S. 113-44.9 | G.S. 143B-135.44 |
| 46 G.S. 113-44.10 | G.S. 143B-135.46 |
| 47 G.S. 113-44.11 | G.S. 143B-135.48 |
| 48 G.S. 113-44.12 | G.S. 143B-135.50 |
| 49 G.S. 113-44.13 | G.S. 143B-135.52 |
| 50 G.S. 113-44.14 | G.S. 143B-135.54 |

G.S. 113-44.15

G.S. 143B-135.56

SECTION 14.30.(f) Articles 5 and 6 of Chapter 113A of the General Statutes and Part 21 of Article 7 of Chapter 143B of the General Statutes and Article 3 of Chapter 113A of the General Statutes are recodified as Parts 33, 34, 35, and 36 of Article 2 of Chapter 143B of the General Statutes as set forth in the table below:

| | <u>Former Citation</u> | <u>Recodified Citation</u> |
|----|------------------------|----------------------------|
| 7 | | |
| 8 | Article 5: | Part 33: |
| 9 | G.S. 113A-72 | G.S. 143B-135.70 |
| 10 | G.S. 113A-73 | G.S. 143B-135.72 |
| 11 | G.S. 113A-74 | G.S. 143B-135.74 |
| 12 | G.S. 113A-75 | G.S. 143B-135.76 |
| 13 | G.S. 113A-76 | G.S. 143B-135.78 |
| 14 | G.S. 113A-77 | G.S. 143B-135.80 |
| 15 | Article 6: | Part 34: |
| 16 | G.S. 113A-83 | G.S. 143B-135.90 |
| 17 | G.S. 113A-84 | G.S. 143B-135.92 |
| 18 | G.S. 113A-85 | G.S. 143B-135.94 |
| 19 | G.S. 113A-86 | G.S. 143B-135.96 |
| 20 | G.S. 113A-87 | G.S. 143B-135.98 |
| 21 | G.S. 113A-87.1 | G.S. 143B-135.100 |
| 22 | G.S. 113A-88 | G.S. 143B-135.102 |
| 23 | G.S. 113A-89 | G.S. 143B-135.104 |
| 24 | G.S. 113A-90 | G.S. 143B-135.106 |
| 25 | G.S. 113A-91 | G.S. 143B-135.108 |
| 26 | G.S. 113A-92 | G.S. 143B-135.110 |
| 27 | G.S. 113A-92.1 | G.S. 143B-135.112 |
| 28 | G.S. 113A-93 | G.S. 143B-135.114 |
| 29 | G.S. 113A-94 | G.S. 143B-135.116 |
| 30 | G.S. 113A-95 | G.S. 143B-135.118 |
| 31 | Part 21: | Part 35: |
| 32 | G.S. 143B-333 | G.S. 143B-135.130 |
| 33 | G.S. 143B-334 | G.S. 143B-135.132 |
| 34 | Article 3: | Part 36: |
| 35 | G.S. 113A-30 | G.S. 143B-135.140 |
| 36 | G.S. 113A-31 | G.S. 143B-135.142 |
| 37 | G.S. 113A-32 | G.S. 143B-135.144 |
| 38 | G.S. 113A-33 | G.S. 143B-135.146 |
| 39 | G.S. 113A-34 | G.S. 143B-135.148 |
| 40 | G.S. 113A-35 | G.S. 143B-135.150 |
| 41 | G.S. 113A-35.1 | G.S. 143B-135.152 |
| 42 | G.S. 113A-35.2 | G.S. 143B-135.154 |
| 43 | G.S. 113A-36 | G.S. 143B-135.156 |
| 44 | G.S. 113A-37 | G.S. 143B-135.158 |
| 45 | G.S. 113A-38 | G.S. 143B-135.160 |
| 46 | G.S. 113A-39 | G.S. 143B-135.162 |
| 47 | G.S. 113A-40 | G.S. 143B-135.164 |
| 48 | G.S. 113A-41 | G.S. 143B-135.166 |
| 49 | G.S. 113A-42 | G.S. 143B-135.168 |
| 50 | G.S. 113A-43 | G.S. 143B-135.170 |
| 51 | G.S. 113A-44 | G.S. 143B-135.172 |

1
2 **SECTION 14.30.(g)** Part 5C of Article 7 of Chapter 143B of the General Statutes
3 is recodified as Part 37 of Article 2 of Chapter 143B of the General Statutes as set forth in the
4 table below:

| <u>Former Citation</u> | <u>Recodified Citation</u> |
|------------------------|----------------------------|
| Part 5C: | Part 37: |
| G.S. 143B-289.40 | G.S. 143B-135.180 |
| G.S. 143B-289.41 | G.S. 143B-135.182 |
| G.S. 143B-289.42 | G.S. 143B-135.184 |
| G.S. 143B-289.43 | G.S. 143B-135.186 |
| G.S. 143B-289.44 | G.S. 143B-135.188 |
| G.S. 143B-289.45 | G.S. 143B-135.190 |

13
14 **SECTION 14.30.(h)** Part 13A of Article 7 of Chapter 143B of the General Statutes
15 is recodified as Part 38 of Article 2 of Chapter 143B of the General Statutes as set forth in the
16 table below:

| <u>Former Citation</u> | <u>Recodified Citation</u> |
|------------------------|----------------------------|
| Part 13A: | Part 38: |
| G.S. 143B-313.1 | G.S. 143B-135.200 |
| G.S. 143B-313.2 | G.S. 143B-135.202 |

21
22 **SECTION 14.30.(i)** Part 22 of Article 7 of Chapter 143B of the General Statutes is
23 recodified as Part 39 of Article 2 of Chapter 143B of the General Statutes as set forth in the
24 table below:

| <u>Former Citation</u> | <u>Recodified Citation</u> |
|------------------------|----------------------------|
| Part 22: | Part 39: |
| G.S. 143B-335 | G.S. 143B-135.205 |
| G.S. 143B-336 | G.S. 143B-135.207 |
| G.S. 143B-336.1 | G.S. 143B-135.209 |

30
31 **SECTION 14.30.(j)** Article 14 of Chapter 143 of the General Statutes, consisting
32 of G.S. 143-177 through G.S. 143-177.3, is recodified into Part 39 of Article 2 of Chapter 143B
33 as set forth in the table below:

| <u>Former Citation</u> | <u>Recodified Citation</u> |
|------------------------|----------------------------|
| G.S. 143-177 | G.S. 143B-135.210 |
| G.S. 143-177.1 | G.S. 143B-135.211 |
| G.S. 143-177.2 | G.S. 143B-135.212 |
| G.S. 143-177.3 | G.S. 143B-135.213 |

39
40 **SECTION 14.30.(k)** Part 29 of Article 7 of Chapter 143B of the General Statutes
41 is recodified as Part 40 of Article 2 of Chapter 143B of the General Statutes as set forth in the
42 table below:

| <u>Former Citation</u> | <u>Recodified Citation</u> |
|------------------------|----------------------------|
| Part 29: | Part 40: |
| G.S. 143B-344.18 | G.S. 143B-135.215 |
| G.S. 143B-344.19 | G.S. 143B-135.217 |
| G.S. 143B-344.20 | G.S. 143B-135.219 |
| G.S. 143B-344.21 | G.S. 143B-135.221 |
| G.S. 143B-344.22 | G.S. 143B-135.223 |
| G.S. 143B-344.23 | G.S. 143B-135.229 |

REVISIONS OF RECODIFIED STATUTES

SECTION 14.30.(l) Parts 31 and 32 of Article 2 of Chapter 143B of the General Statutes, as recodified by subsection (e) of this section, reads as rewritten:

"Part 31. Acquisition and Control of State Parks.

"§ 143B-135.10. Definitions.

(a) In this ~~Article, Part~~, unless the context requires otherwise, "Department" means the Department of ~~Environment and Natural Resources; Natural and Cultural Resources, and~~ "Secretary" means the Secretary of ~~Environment and Natural Resources; Natural and Cultural Resources.~~

(b) ~~Repealed by Session Laws 2011-145, s. 13.25(n), effective July 1, 2011."~~

"§ 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 ~~Environment and Natural Resources; Natural and Cultural Resources~~ for management by the Division of Parks and Recreation lands that the Department of ~~Environment and Natural Resources; 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 ~~Article 2C of Chapter 113; 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 ~~Environment and Natural Resources; Natural and Cultural Resources~~ under ~~G.S. 113-34(a); G.S. 143B-135.12(a)~~ to acquire land by condemnation.

"§ 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.

~~(a)~~(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.

~~(b)~~(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.

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

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

4 ~~(b1)~~(d) Members of the public who pay a fee under subsection ~~(b)~~-(c) of this section for
5 access to Fort Fisher State Recreation Area may have 24-hour access to Fort Fisher State
6 Recreation Area from September 15 through March 15 of each year.

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

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

18 ~~(d1)~~(g) The Department shall ~~implement the following recommendations:~~ validate no less
19 frequently than every five years the number of visitors per car used in the calculation of visitor
20 counts at State Parks.

21 ~~(e)~~(h) The authority granted to the Department under this section is in addition to any
22 authority granted to the Department under any other provision of law.

23 **"§ 143B-135.18. Legislative authority necessary for payment.**

24 Nothing in this ~~Article-Part~~ shall operate or be construed as authority for the payment of
25 any money out of the State treasury for the purchase of lands or for other purposes unless by
26 appropriation for said purpose by the General Assembly.

27"

28 "Part 32. State Parks Act.

29 **"§ 143B-135.40. Short title.**

30 This ~~Article-Part~~ shall be known as the State Parks Act.

31 **"§ 143B-135.42. Declaration of policy and purpose.**

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

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

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

44 (d) The purpose of this ~~Article-Part~~ is to establish methods and principles for the
45 planned acquisition, development, and operation of State parks.

46 **"§ 143B-135.44. Definitions.**

47 As used in this ~~Article-Part~~, unless the context requires otherwise:

48 (1) "Department" means the Department of ~~Environment and Natural~~ and
49 Cultural Resources.

- 1 (2) "Park" means any tract of land or body of water comprising part of the State
2 Parks System under this ~~Article, Part~~, including existing State parks, State
3 natural areas, State recreation areas, State trails, State rivers, and State lakes.
4 (3) "Plan" means State Parks System Plan.
5 (4) "Secretary" means the Secretary of ~~Environment and Natural~~ and Cultural
6 Resources.
7 (5) "State Parks System" or "system" mean all those lands and waters which
8 comprise the parks system of the State as established under this ~~Article, Part~~.

9 **"§ 143B-135.46. Powers of the Secretary.**

10 The Secretary shall implement the provisions of this ~~Article, Part~~ and shall be responsible
11 for the administration of the State Parks System.

12 **"§ 143B-135.48. Preparation of a System Plan.**

13 (a) The Secretary shall prepare and adopt a State Parks System Plan by December 31,
14 1988. The Plan, at a minimum, shall:

- 15 (1) Outline a method whereby the mission and purposes of the State Parks
16 System as defined in ~~G.S. 113-44.8~~ G.S. 143B-135.42 can be achieved in a
17 reasonable, timely, and cost-effective manner;
18 (2) Evaluate existing parks against these standards to determine their statewide
19 significance;
20 (3) Identify duplications and deficiencies in the current State Parks System and
21 make recommendations for correction;
22 (4) Describe the resources of the existing State Parks System and their current
23 uses, identify conflicts created by those uses, and propose solutions to them;
24 and
25 (5) Describe anticipated trends in usage of the State Parks System, detail what
26 impacts these trends may have on the State Parks System, and recommend
27 means and methods to accommodate those trends successfully.

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

- 32 (1) Views and information on the needs of the public for recreational resources
33 in the State Parks System;
34 (2) Views and information on the manner in which these needs should be
35 addressed;
36 (3) Review of the draft plan prepared by the Secretary before he adopts the Plan.

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

40 (d) No later than October 1 of each year, the Department shall submit electronically the
41 State Parks System Plan to the Environmental Review Commission, the Senate and the House
42 of Representatives ~~Appropriations Subcommittees on Natural and Economic Resources,~~
43 appropriations committees with jurisdiction over natural and cultural resources, and the Fiscal
44 Research Division. Concurrently, the Department shall submit a summary of each change to the
45 Plan that was made during the previous fiscal year.

46 **"§ 143B-135.50. Classification of parks resources.**

47 After adopting the Plan, the Secretary shall identify and classify the major resources of each
48 of the parks in the State Parks System, in order to establish the major purpose or purposes of
49 each of the parks, consistent with the Plan and the purposes of this ~~Article, Part~~.

50 **"§ 143B-135.52. General management plans.**

1 Every park classified pursuant to ~~G.S. 113-44.12~~ G.S. 143B-135.50 shall have a general
2 management plan. The plan shall include a statement of purpose for the park based upon its
3 relationship to the System Plan and its classification. An analysis of the major resources and
4 facilities on hand to achieve those purposes shall be completed along with a statement of
5 management direction. The general management plan shall be revised as necessary to comply
6 with the System Plan and to achieve the purposes of this ~~Article-Part~~.

7 **"§ 143B-135.54. Additions to and deletions from the State Parks System.**

8 (a) If, in the course of implementing ~~G.S. 113-44.12~~ G.S. 143B-135.50 the Secretary
9 determines that the major purposes of a park are not consistent with the purposes of this ~~Article~~
10 Part and the Plan, the Secretary may propose to the General Assembly the deletion of that park
11 from the State Parks System. On a majority vote of each house of the General Assembly, the
12 General Assembly may remove the park from the State Parks System. No other agency or
13 governmental body of the State shall have the power to remove a park or any part from the
14 State Parks System.

15 (b) New parks shall be added to the State Parks System by the Department after
16 authorization by the General Assembly. Each additional park shall be authorized only by an act
17 of the General Assembly. Additions shall be consistent with and shall address the needs of the
18 State Parks System as described in the Plan. All additions shall be accompanied by adequate
19 authorization and appropriations for land acquisition, development, and operations.

20 **"§ 143B-135.56. Parks and Recreation Trust Fund.**

21 ...

22 (c) Reports. – The North Carolina Parks and Recreation Authority shall report no later
23 than October 1 of each year to the Joint Legislative Commission on Governmental Operations,
24 the House and Senate Appropriations Subcommittees on Natural and Economic Resources, the
25 Fiscal Research Division, and the Environmental Review Commission on allocations from the
26 Trust Fund from the prior fiscal year. For funds allocated from the Trust Fund under
27 ~~subdivision~~ subsection (b1) of this section, this report shall include the operating expenses
28 determined under subdivisions (1) and (2) of subsection (b3) of this section.

29"

30 **SECTION 14.30.(m)** Parts 33-36 of Article 2 of Chapter 143B of the General
31 Statutes, as recodified by subsection (f) of this section, read as rewritten:

32 "Part 33. North Carolina Appalachian Trails System Act.

33 **"§ 143B-135.70. Short title.**

34 This ~~Article-Part~~ may be cited as the North Carolina Appalachian Trails System Act.

35 **"§ 143B-135.72. Policy and purpose.**

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

40 (b) The purpose of this ~~Article-Part~~ is to provide the means for attaining these
41 objectives by instituting a North Carolina Appalachian Trail System, designating the
42 Appalachian Trail lying or located in the North Carolina Counties of Avery, Mitchell, Yancey,
43 Madison, Haywood, Swain, Graham, Macon, and Clay, as defined in the Federal Register of
44 the National Trails Act as the basic component of that System, and by prescribing the methods
45 by which, and standards according to which, additional connecting trails may be added to the
46 System.

47 **"§ 143B-135.74. Appalachian Trails System; connecting or side trails; coordination with
48 the National Trails System Act.**

49 Connecting or side trails may be established, designated and marked as components of the
50 Appalachian Trail System by the Department of ~~Environment and Natural~~ and Cultural
51 Resources in consultation with the federal agencies charged with the responsibility for the

1 administration and management of the Appalachian Trail in North Carolina. Criteria and
2 standards of establishment will coincide with those set forth in the National Trails System Act
3 (PL 90-543).

4 **"§ 143B-135.76. Assistance under this ~~Article-Part~~ with the National Trails System Act**
5 **(PL 90-543).**

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

11 (b) The Department of ~~Environment and Natural~~ and Cultural Resources and the federal
12 agencies charged with the responsibility of the administration of the Appalachian Trail in North
13 Carolina shall give due consideration to the conservation of the environment of the
14 Appalachian Trail and, in accordance with the National Trails System Act, may obtain advice
15 and assistance from local governments, Carolina Mountain Club, Nantahala Hiking Club,
16 Piedmont Appalachian Trail Hikers, Appalachian Trail Conference, other interested
17 organizations and individuals, landowners and land users concerned.

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

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

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

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

33 (g) The use of motor vehicles on the trails of the North Carolina Appalachian Trail
34 System may be authorized when such use is necessary to meet emergencies or to enable
35 adjacent landowners to have reasonable access to their lands and timber rights provided that the
36 granting of this access is in accordance with limitations and conditions of such use set forth in
37 the National Trails System Act.

38 **"§ 143B-135.78. Acquisition of rights-of-way and lands; manner of acquiring.**

39 The State of North Carolina may use lands for trail purposes within the boundaries of areas
40 under its administration that are included in the rights-of-way selected for the Appalachian
41 Trail System. The Department of Administration may acquire lands or easements by donation
42 or purchase with funds donated or appropriated for such purpose.

43 **"§ 143B-135.80. Expenditures authorized.**

44 The Department is authorized to spend any federal, State, local or private funds available
45 for this purpose to the Department for acquisition and development of the Appalachian Trail
46 System.

47 "Part 34. North Carolina Trails System.

48 **"§ 143B-135.90. Short title.**

49 This ~~Article-Part~~ shall be known and may be cited as the "North Carolina Trails System
50 Act."

51 **"§ 143B-135.92. Declaration of policy and purpose.**

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

5 (b) The purpose of this ~~Article-Part~~ is to provide the means for attaining these
6 objectives by instituting a State system of scenic and recreation trails, coordinated with and
7 complemented by existing and future local trail segments or systems, and by prescribing the
8 methods by which, and standards according to which, components may be added to the State
9 trails system.

10 **"§ 143B-135.94. Definitions.**

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

- 13 (1) "Department" means the North Carolina Department of ~~Environment and~~
14 Natural and Cultural Resources.
- 15 (2) "Political subdivision" means any county, any incorporated city or town, or
16 other political subdivision.
- 17 (3) "Scenic easement" means a perpetual easement in land which
18 a. Is held for the benefit of the people of North Carolina,
19 b. Is specifically enforceable by its holder or beneficiary, and
20 c. Limits or obligates the holder of the servient estate, his heirs, and
21 assigns with respect to their use and management of land and
22 activities conducted thereon, the object of such limitations and
23 obligations being the maintenance or enhancement of the natural
24 beauty of the land in question or of areas affected by it.
- 25 (4) "Secretary" means the Secretary of ~~Environment and~~ Natural and Cultural
26 Resources, except as otherwise specified in this ~~Article-Part~~.
- 27 (5) "State trails system" means the trails system established in this ~~Article-Part~~
28 or pursuant to the State Parks Act, Article 2C of Chapter 113 of the General
29 Statutes, Part 32 of this Article, and including all trails and trail segments,
30 together with their rights-of-way, added by any of the procedures described
31 in this ~~Article or Article 2C of Chapter 113 of the General Statutes~~ Part or
32 Part 32 of this Article.
- 33 (6) "Trail" means:
34 a. Park trail. – A trail designated and managed as a unit of the North
35 Carolina State Parks System under ~~Article 2C of Chapter 113 of the~~
36 ~~General Statutes~~ Part 32 of this Article.
37 b. Designated trail. – A trail designated by the Secretary pursuant to this
38 ~~Article-Part~~ as a component of the State trails system and that is
39 managed by another governmental agency or by a corporation listed
40 with the Secretary of State.
41 c. A State scenic trail, State recreation trail, or State connecting trail
42 under ~~G.S. 113A-86~~ G.S. 143B-135.96 when the intended primary
43 use of the trail is to serve as a park trail or designated trail.
44 d. Any other trail that is open to the public and that the owner, lessee,
45 occupant, or person otherwise in control of the land on which the
46 trail is located allows to be used as a trail without compensation,
47 including a trail that is not designated by the Secretary as a
48 component of the State trails system.
- 49 (7) "Trails Committee" means the North Carolina Trails Committee established
50 by Part 35 of this Article.

51 **"§ 143B-135.96. Composition of State trails system.**

1 The State trails system shall be composed of designated:

- 2 (1) State scenic trails, which are defined as extended trails so located as to
3 provide maximum potential for the appreciation of natural areas and for the
4 conservation and enjoyment of the significant scenic, historic, natural,
5 ecological, geological or cultural qualities of the areas through which such
6 trails may pass.
- 7 (2) State recreation trails, which are defined as trails planned principally for
8 recreational value and may include trails for foot travel, horseback,
9 nonmotorized bicycles, nonmotorized water vehicles, and two-wheel-and
10 four-wheel-drive motorized vehicles. More than one of the aforesaid types of
11 travel may be permitted on a single trail in the discretion of the Secretary.
- 12 (3) Connecting or side trails, which will provide additional points of public
13 access to State recreation or State scenic trails or which will provide
14 connections between such trails.

15 **"§ 143B-135.98. Authority to designate trails.**

16 The Department may establish and designate trails on:

- 17 (1) Lands administered by the Department,
18 (2) Lands under the jurisdiction of a State department, political subdivision, or
19 federal agency, or
20 (3) Private lands provided, fee-simple title, lesser estates, scenic easements,
21 easements of surface ingress and egress running with the land, leases, or
22 other written agreements are obtained from landowners through which a
23 State trail may pass.

24 **"§ 143B-135.100. Use of State land for bicycling; creation of trails by volunteers.**

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

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

38 (b) Notwithstanding the provisions of subsection (a) of this section, any land may be
39 restricted or removed from use by bicyclists if it is determined by the State, an agency of the
40 State, or the holder of land purchased or leased with State funds that the use would cause
41 substantial harm to the land or the environment or that the use would violate another State or
42 federal law. Before restricting or removing land from use by bicyclists, the State, the agency of
43 the State, or the holder of the land purchased or leased with State funds must show why the
44 lands should not be open for use by bicyclists. Local cycling groups or organizations shall be
45 notified of the intent to restrict or remove the land from use by bicyclists and provided an
46 opportunity to show why cycling should be allowed on the land. Notice of any land restricted
47 or removed from use by bicyclists pursuant to this subsection shall be filed with the Division of
48 Bicycle and Pedestrian Transportation of the Department of Transportation.

49 (c) The Division of Bicycle and Pedestrian Transportation of the Department of
50 Transportation shall keep a record of all lands made open and available for use by bicyclists
51 pursuant to this section and shall make the information available to the public upon request.

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

6 (e) Notwithstanding any other provision of this section, any hiking, walking, or use of
7 bicycles on game lands administered by the Wildlife Resources Commission shall be restricted
8 to roads and trails designated for vehicular use. Hiking, walking, or bicycle use by persons not
9 hunting shall be restricted to days closed to hunting. The Wildlife Resources Commission may
10 restrict the use of bicycles on game lands where necessary to protect sensitive wildlife habitat
11 or species and shall file notice of any restrictions with the Division of Bicycle and Pedestrian
12 Transportation of the Department of Transportation.

13 ~~"§ 143B-135.102. North Carolina Trails Committee; composition; meetings and~~
14 ~~functions.~~ **Trails Committee duties.**

15 (a) ~~Repealed by Session Laws 1973, c. 1262, s. 82.~~

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

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

22 ~~(d)(c)~~ (c) The Secretary, with advice of the Committee, shall study trail needs and potentials,
23 and make additions to the State Trails System as needed. He shall submit an annual report to
24 the Governor and General Assembly on trail activities by the Department, including
25 rights-of-way that have been established and on the program for implementing this ~~Article.~~
26 Part. Each report shall include a short statement on the significance of the various trails to the
27 System. The Secretary shall make such rules as to trail development, management, and use that
28 are necessary for the proper implementation of this ~~Article.~~ Part.

29 **"§ 143B-135.104. Location of trails.**

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

32 For State scenic trails, the Secretary or a designee, after consulting with the Committee,
33 shall recommend a route. For State recreation trails and for connecting or side trails, the
34 Secretary or a designee, after consulting with the Committee, shall select the route. The
35 Secretary may provide technical assistance to political subdivisions or private, nonprofit
36 organizations that develop, construct, or maintain designated trails or other public trails that
37 complement the State trails system. When a route shall traverse land within the jurisdiction of a
38 governmental unit or political subdivision, the Department shall consult with such unit or such
39 subdivision prior to its final determination of the location of the route. The selected route shall
40 be compatible with preservation or enhancement of the environment it traverses. Reasonable
41 effort shall be made to minimize any adverse effects upon adjacent landowners and users.
42 Notice of the selected route shall be published by the Department in a newspaper of general
43 circulation in the area in which the trail is located, together with appropriate maps and
44 descriptions to be conspicuously posted at the appropriate courthouse. Such publication shall be
45 prior to the designation of the trail by the Secretary.

46 **"§ 143B-135.106. Scenic easements within right-of-way.**

47 Within the boundaries of the right-of-way, the Secretary of the North Carolina Department
48 of Administration may acquire, on behalf of the State of North Carolina, lands in fee title, or
49 interest in land in the form of scenic easements, cooperative agreements, easements of surface
50 ingress and egress running with the land, leases, or less than fee estates. Acquisition of land or
51 of interest therein may be by gift, purchased with donated funds or funds appropriated by the

1 governmental agencies for this purpose, proceeds from the sale of bonds or exchange. Any
2 change in value of land resulting from the grant of an easement shall be taken into
3 consideration in the assessment of the land for tax purposes.

4 **"§ 143B-135.108. Trails within parks; conflict of laws.**

5 Any component of the System that is or shall become a part of any State park, recreation
6 area, wildlife management area, or similar area shall be subject to the provisions of this ~~Article~~
7 Part as well as any other laws under which the other areas are administered, and in the case of
8 conflict between the provisions the more restrictive provisions shall apply.

9 **"§ 143B-135.110. Uniform trail markers.**

10 The Department, in consultation with the Committee, shall establish a uniform marker for
11 trails contained in the System. An additional appropriate symbol characterizing specific trails
12 may be included on the marker. The markers shall be placed at all access points, together with
13 signs indicating the modes of locomotion that are prohibited for the trail, provided that where
14 the trail constitutes a portion of a national scenic trail, use of the national scenic trail uniform
15 marker shall be considered sufficient. The route of the trail and the boundaries of the
16 right-of-way shall be adequately marked.

17 **"§ 143B-135.112. Adopt-A-Trail Program.**

18 The Department shall establish an Adopt-A-Trail Program to coordinate with the Trails
19 Committee and local groups or persons on trail development and maintenance. Local
20 involvement shall be encouraged, and interested groups are authorized to "adopt-a-trail" for
21 such purposes as placing trail markers, trail building, trail blazing, litter control, resource
22 protection, and any other activities related to the policies and purposes of this ~~Article~~Part.

23 **"§ 143B-135.114. Administrative policy.**

24 The North Carolina Trails System shall be administered by the Department according to the
25 policies and criteria set forth in this ~~Article~~Part. The Department shall, in addition, have or
26 designate the responsibility for maintaining the trails, building bridges, campsites, shelters, and
27 related public-use facilities where required.

28 **"§ 143B-135.116. Incorporation in National Trails System.**

29 Nothing in this ~~Article~~Part shall preclude a component of the State Trails System from
30 becoming a part of the National Trails System. The Secretary shall coordinate the State Trails
31 System with the National Trails System and is directed to encourage and assist any federal
32 studies for inclusion of North Carolina trails in the National Trails System. The Department
33 may enter into written cooperative agreements for joint federal-State administration of a North
34 Carolina component of the National Trails System, provided such agreements for
35 administration of land uses are not less restrictive than those set forth in this ~~Article~~Part.

36 **"§ 143B-135.118. Trail use liability.**

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

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

45 (c) ~~Repealed by Session Laws 1993, c. 184, s. 6.~~

46 "Part 35. North Carolina Trails Committee.

47 **"§ 143B-135.130. North Carolina Trails Committee – creation; powers and duties.**

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

- 1 (1) To meet not less than two times annually to advise the Department on all
2 matters directly or indirectly pertaining to trails, their use, extent, location,
3 and the other objectives and purposes of ~~G.S. 113A-88-G.S. 143B-135.102.~~
4 (2) To coordinate trail development among local governments, and to assist
5 local governments in the formation of their trail plans and advise the
6 Department of its findings.
7 (3) To advise the Secretary of trail needs and potentials pursuant to
8 ~~G.S. 113A-88-G.S. 143B-135.102.~~

9 **"§ 143B-135.132. North Carolina Trails Committee – members; selection; removal;
10 compensation.**

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

15 ~~The initial members of the North Carolina Trails Committee shall be the members of the~~
16 ~~current North Carolina Trails Committee who shall serve for a period equal to the remainder of~~
17 ~~their current term on the North Carolina Trails Committee. At the end of the respective terms of~~
18 ~~office of the initial members of the Committee, the appointment of their successors shall be for~~
19 Committee members shall serve staggered terms of four years and until their successors are
20 appointed and qualify. Any appointment to fill a vacancy on the Committee created by the
21 resignation, dismissal, death or disability of a member shall be for the balance of the unexpired
22 term.

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

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

27 Members of the Committee shall receive per diem and necessary travel and subsistence
28 expenses in accordance with the provisions of G.S. 138-5 and G.S. 143B-15 of the Executive
29 Organization Act of 1973.

30 "Part 36. Natural and Scenic Rivers System.

31 **"§ 143B-135.140. Short title.**

32 This ~~Article-Part~~ shall be known and may be cited as the "Natural and Scenic Rivers Act of
33 1971."

34 **"§ 143B-135.142. Declaration of policy.**

35 The General Assembly finds that certain rivers of North Carolina possess outstanding
36 natural, scenic, educational, geological, recreational, historic, fish and wildlife, scientific and
37 cultural values of great present and future benefit to the people. The General Assembly further
38 finds as policy the necessity for a rational balance between the conduct of man and the
39 preservation of the natural beauty along the many rivers of the State. This policy includes
40 retaining the natural and scenic conditions in some of the State's valuable rivers by maintaining
41 them in a free-flowing state and to protect their water quality and adjacent lands by retaining
42 these natural and scenic conditions. It is further declared that the preservation of certain rivers
43 or segments of rivers in their natural and scenic condition constitutes a beneficial public
44 purpose.

45 **"§ 143B-135.144. Declaration of purpose.**

46 The purpose of this ~~Article-Part~~ is to implement the policy as set out in ~~G.S. 113A-31~~
47 G.S. 143B-135.142 by instituting a North Carolina natural and scenic rivers system, and by
48 prescribing methods for inclusion of components to the system from time to time.

49 **"§ 143B-135.146. Definitions.**

50 As used in this ~~Article-Part~~, unless the context requires otherwise:

- 1 (1) "Department" means the Department of ~~Environment and~~ Natural and
2 Cultural Resources.
- 3 (2) "Free-flowing," as applied to any river or section of a river, means existing
4 or flowing in natural condition without substantial impoundment, diversion,
5 straightening, rip-rapping, or other modification of the waterway. The
6 existence of low dams, diversion works, and other minor structures at the
7 time any river is proposed for inclusion in the North Carolina natural and
8 scenic rivers system shall not automatically bar its consideration for such
9 inclusion: Provided, that this shall not be construed to authorize, intend, or
10 encourage future construction of such structures within components of the
11 system.
- 12 (3) "River" means a flowing body of water or estuary or a section, portion, or
13 tributary thereof, including rivers, streams, creeks, runs, kills, rills, and small
14 lakes.
- 15 (4) "Road" means public or private highway, hard-surface road, dirt road, or
16 railroad.
- 17 (5) "Scenic easement" means a perpetual easement in land which (i) is held for
18 the benefit of the people of North Carolina, (ii) is specifically enforceable by
19 its holder or beneficiary, and (iii) limits or obligates the holder of the
20 servient estate, his heirs, and assigns with respect to their use and
21 management of the land and activities conducted thereon. The object of such
22 limitations and obligations is the maintenance or enhancement of the natural
23 beauty of the land in question or of the areas affected by it.
- 24 (6) "Secretary" means the Secretary of ~~Environment and~~ Natural and Cultural
25 Resources.

26 **"§ 143B-135.148. Types of scenic rivers.**

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

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

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

37 Class III. Recreational river areas. Those rivers or segments of rivers that offer outstanding
38 recreation and scenic values and that are largely free of impoundments. They may have some
39 development along their shorelines and have more extensive public access than natural or
40 scenic river segments. Recreational river segments may also link two or more natural and/or
41 scenic river segments to provide a contiguous designated river area. No provision of this
42 section shall interfere with flood control measures; provided that recreational river users can
43 continue to travel the river.

44 **"§ 143B-135.150. Criteria for system.**

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

- 47 (1) River segment length – must be no less than one mile.
- 48 (2) Boundaries – of the system shall be the visual horizon or such distance from
49 each shoreline as may be determined to be necessary by the Secretary, but
50 shall not be less than 20 feet.

- 1 (3) Water quality – shall not be less than that required for Class "C" waters as
2 established by the North Carolina Environmental Management Commission.
3 (4) Water flow – shall be sufficient to assure a continuous flow and shall not be
4 subjected to withdrawal or regulation to the extent of substantially altering
5 the natural ecology of the stream.
6 (5) Public access – shall be limited, but may be permitted to the extent deemed
7 proper by the Secretary, and in keeping with the property interest acquired
8 by the Department and the purpose of this ~~Article~~ Part.

9 **"§ 143B-135.152. Components of system; management plan; acquisition of land and**
10 **easements; inclusion in national system.**

11 (a) That segment of the south fork of the New River extending from its confluence with
12 Dog Creek in Ashe County downstream through Ashe and Alleghany Counties to its
13 confluence with the north fork of the New River and the main fork of the New River in Ashe
14 and Alleghany Counties downstream to the Virginia State line shall be a scenic river area and
15 shall be included in the North Carolina Natural and Scenic Rivers System.

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

22 For purposes of implementing this section and the management plan, the Department may
23 acquire lands or interests in lands, provide for protection of scenic values as described in
24 ~~G.S. 113A-38,~~ G.S. 143B-135.160, and provide for public access. Easements obtained for the
25 purpose of implementing this section and the management plan shall not abridge the water
26 rights being exercised on May 26, 1975.

27 Should the Governor seek inclusion of this river segment in the National System of Wild
28 and Scenic Rivers by action of the Secretary of Interior, such inclusion shall be at no cost to the
29 federal government, as prescribed in the National Wild and Scenic Rivers Act, and therefore
30 shall be under the terms described in this section of the North Carolina Wild and Scenic Rivers
31 Act and in the management plan developed pursuant thereto.

32 (b) ~~Repealed by Session Laws 2012-200, s. 24, effective August 1, 2012.~~

33 **"§ 143B-135.154. Additional components.**

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

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

42 That segment of the Lumber River extending from county road 1412 in Scotland County
43 downstream to the North Carolina-South Carolina state line, a distance of approximately 102
44 river miles, shall be included in the Natural and Scenic Rivers System and classified as follows:
45 from county road 1412 in Scotland County downstream to the junction of the Lumber River
46 and Back Swamp shall be classified as scenic; from the junction of the Lumber River and Back
47 Swamp downstream to the junction of the Lumber River and Jacob Branch and the river within
48 the Fair Bluff town limits shall be classified as recreational; and from the junction of the
49 Lumber River and Jacob Branch downstream to the North Carolina-South Carolina state line,
50 excepting the Fair Bluff town limits, shall be classified as natural.

1 "§ 143B-135.156. Administrative agency; federal grants; additions to the system;
2 regulations.

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

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

8 (c) The Secretary of the Department shall study and from time to time submit to the
9 Governor and to the General Assembly proposals for the additions to the system of rivers and
10 segments of rivers which, in his judgment, fall within one or more of the categories set out in
11 ~~G.S. 113A-34.~~ G.S. 143B-135.148. Each proposal shall specify the category of the proposed
12 addition and shall be accompanied by a detailed report of the facts which, in the Secretary's
13 judgment, makes the area a worthy addition to the system.

14 Before submitting any proposal to the Governor or the General Assembly for the addition to
15 the system of a river or segment of a river, the Secretary or his authorized representative, shall
16 hold a public hearing in the county or counties where said river or segment of river is situated.
17 Notice of such public hearing shall be given by publishing a notice once each week for two
18 consecutive weeks in a newspaper having general circulation in the county where said hearing
19 is to be held, the second of said notices appearing not less than 10 days before said hearing.
20 Any person attending said hearing shall be given an opportunity to be heard. Notwithstanding
21 the provisions of the foregoing, no public hearing shall be required with respect to a river
22 bounded solely by the property of one owner, who consents in writing to the addition of such
23 river to the system.

24 The Department shall also conduct an investigation on the feasibility of the inclusion of a
25 river or a segment of river within the system and file a written report with the Governor when
26 submitting a proposal.

27 The Department shall also, before submitting such a proposal to the Governor or the
28 General Assembly, notify in writing the owner, lessee, or tenant of any lands adjoining said
29 river or segment of river of its intention to make such proposal. In the event the Department,
30 after due diligence, is unable to determine the owner or lessee of any such land, the Department
31 may publish a notice for four successive weeks in a newspaper having general circulation in the
32 county where the land is situated of its intention to make a proposal to the Governor or General
33 Assembly for the addition of a river or segment of river to the system.

34 ~~(c)~~(d) Upon receipt of a request in the form of a resolution from the commissioners of the
35 county or counties in which a river segment is located and upon studying the segment and
36 determining that it meets the criteria set forth in ~~G.S. 113A-35,~~ G.S. 143B-135.150, the
37 Secretary may designate the segment a potential component of the natural and scenic rivers
38 system. The designation as a potential component shall be transmitted to the Governor and all
39 appropriate State agencies. Any segment so designated is subject to the provisions of this
40 ~~Article-Part~~ applicable to designated rivers, except for acquisition by condemnation or
41 otherwise, and to any rules adopted pursuant to this ~~Article-Part.~~ The Secretary shall make a
42 full report and, if appropriate, a proposal for an addition to the natural and scenic rivers system
43 to the General Assembly within 90 days after the convening of the next session following
44 issuance of the designation, and the General Assembly shall determine whether to designate the
45 segment as a component of the natural and scenic rivers system. If the next session of the
46 General Assembly fails to take affirmative action on the designation, the designation as a
47 potential component shall expire.

48 ~~(d)~~(e) The Department may adopt rules to implement this ~~Article-Part.~~

49 "§ 143B-135.158. Raising the status of an area.

50 Whenever in the judgment of the Secretary of the Department a scenic river segment has
51 been sufficiently restored and enhanced in its natural scenic and recreational qualities, such

1 segment may be reclassified with the approval of the Department, to a natural river area status
2 and thereafter administered accordingly.

3 **"§ 143B-135.160. Land acquisition.**

4 (a) The Department of Administration is authorized to acquire for the Department,
5 within the boundaries of a river or segment of river as set out in ~~G.S. 113A-35~~
6 G.S. 143B-135.150 on behalf of the State of North Carolina, lands in fee title or a lesser interest
7 in land, preferably "scenic easements." Acquisition of land or interest therein may be by
8 donation, purchase with donated or appropriated funds, exchange or otherwise.

9 (b) The Department of Administration in acquiring real property or a property interest
10 therein as set out in this ~~Article-Part~~ shall have and may exercise the power of eminent domain
11 in accordance with Article 3 of Chapter 40A of the General Statutes.

12 **"§ 143B-135.162. Claim and allowance of charitable deduction for contribution or gift of**
13 **easement.**

14 The contribution or donation of a "scenic easement," right-of-way or any other easement or
15 interest in land to the State of North Carolina, as provided in this ~~Article-Part~~, shall be deemed
16 a contribution to the State of North Carolina within the provisions of G.S. 105-130.9 and
17 section 170(c)(1) of the Internal Revenue Code. The value of the contribution or donation shall
18 be the fair market value of the easement or other interest in land when the contribution or
19 donation is made.

20 **"§ 143B-135.164. Component as part of State park, wildlife refuge, etc.**

21 Any component of the State natural and scenic rivers system that is or shall become a part
22 of any State park, wildlife refuge, or state-owned area shall be subject to the provisions of this
23 ~~Article-Part~~ and the ~~Articles-laws~~ under which the other areas may be administered, and in the
24 case of conflict between the provisions of these ~~Articles-laws~~, the more restrictive provisions
25 shall apply.

26 **"§ 143B-135.166. Component as part of national wild and scenic river system.**

27 Nothing in this ~~Article-Part~~ shall preclude a river or segment of a river from becoming part
28 of the national wild and scenic river system. The Secretary ~~of the Department~~ is directed to
29 encourage and assist any federal studies for the inclusion of North Carolina rivers in the
30 national system. The Secretary may enter into cooperative agreements for joint federal-state
31 administration of a North Carolina river or segment of river: Provided, that such agreements
32 relating to water and land use are not less restrictive than the requirements of this ~~Article-Part~~.

33 **"§ 143B-135.168. Violations.**

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

37 (b) Penalties. – Whoever violates, fails, neglects or refuses to obey any provision of this
38 ~~Article-Part~~ or rule or order of the Secretary is guilty of a Class 3 misdemeanor and may be
39 punished only by a fine of not more than fifty dollars (\$50.00) for each violation, and each day
40 such person shall fail to comply, where feasible, after having been officially notified by the
41 Department shall constitute a separate offense subject to the foregoing penalty.

42 **"§ 143B-135.170. Authorization of advances.**

43 The Department of Administration is hereby authorized to advance from land-purchase
44 appropriations necessary amounts for the purchase of land in those cases where reimbursement
45 will be later effected by the Bureau of Outdoor Recreation of the United States Department of
46 the Interior.

47 **"§ 143B-135.172. Restrictions on project works on natural or scenic river.**

48 The State Utilities Commission may not permit the construction of any dam, water conduit,
49 reservoir, powerhouse transmission line, or any other project works on or directly affecting any
50 river that is designated as a component or potential component of the State Natural and Scenic
51 Rivers System. No department or agency of the State may assist by loan, grant, license, permit,

1 or otherwise in the construction of any water resources project that would have a direct and
2 adverse effect on any river that is designated as a component or potential component of the
3 State Natural and Scenic Rivers System. This section shall not, however, preclude licensing of
4 or assistance to a development below or above a designated or potential component. No
5 department or agency of the State may recommend authorization of any water resources project
6 that would have a direct and adverse effect on any river that is designated as a component or
7 potential component of the State Natural and Scenic Rivers System, or request appropriations
8 to begin construction of any such project, regardless of when authorized, without advising the
9 Secretary in writing of its intention to do so at least 60 days in advance. Such department or
10 agency making such recommendation or request shall submit a written impact statement to the
11 General Assembly to accompany the recommendation or request specifically describing how
12 construction of the project would be in conflict with the purposes of this act and how it would
13 affect the component or potential component."

14 **SECTION 14.30.(n)** Part 37 of Article 2 of Chapter 143B of the General Statutes,
15 as recodified by subsection (g) of this section, reads as rewritten:

16 "Part 37. Division of North Carolina Aquariums.

17 **"§ 143B-135.180. Division of North Carolina Aquariums – creation.**

18 The Division of North Carolina Aquariums is created in the Department of ~~Environment~~
19 ~~and Natural and Cultural~~ Resources.

20 **"§ 143B-135.182. Division of North Carolina Aquariums – organization; powers and**
21 **duties.**

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

25 ~~(1) Repealed by Session Laws 1991, c. 320, s. 3.~~

26 ~~(1a)~~(1) Establish and maintain the North Carolina Aquariums.

27 ~~(1b)~~(2) Administer the operations of the North Carolina Aquariums, such
28 administrative duties to include, but not be limited to the following:

- 29 a. Adopt goals and objectives for the Aquariums and review and revise
30 these goals and objectives periodically.
- 31 b. Review and approve requests for use of the Aquarium facilities and
32 advise the Secretary of ~~Environment and Natural and Cultural~~
33 Resources on the most appropriate use consistent with the goals and
34 objectives of the Aquariums.
- 35 c. Continually review and evaluate the types of projects and programs
36 being carried out in the Aquarium facilities and determine if the
37 operation of the facilities is in compliance with the established goals
38 and objectives.
- 39 d. Recommend to the Secretary of ~~Environment and Natural and~~
40 ~~Cultural~~ Resources any policies and procedures needed to assure
41 effective staff performance and proper liaison among Aquarium
42 facilities in carrying out the overall purposes of the Aquarium
43 programs.
- 44 e. Review Aquarium budget submissions to the Secretary of
45 Environment and Natural Resources.
- 46 f. Recruit and recommend to the Secretary of ~~Environment and Natural~~
47 ~~and Cultural~~ Resources candidates for the positions of directors of
48 the Aquariums.
- 49 g. Create local advisory committees in accordance with the provisions
50 of ~~G.S. 143B-289.43.~~ G.S. 143B-135.186.

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

(9) ~~(2), (3) Repealed by Session Laws 1993, c. 321, s. 28(e).~~

(10) ~~(4) through (6) Repealed by Session Laws 1991, c. 320, s. 3.~~

(11) ~~(7)~~ Assume any other powers and duties assigned to it by the Secretary.

(12) (b) The Secretary may adopt any rules and procedures necessary to implement this
 (13) section.

(14) **"§ 143B-135.184. North Carolina Aquariums; purpose.**

(15) The purpose of establishing and maintaining the North Carolina Aquariums is to promote
 (16) an awareness, understanding, and appreciation of the diverse natural and cultural resources
 (17) associated with North Carolina's oceans, estuaries, rivers, streams, and other aquatic
 (18) environments.

(19) **"§ 143B-135.186. Local advisory committees; duties; membership.**

(20) Local advisory committees created pursuant to ~~G.S. 143B-289.41(a)(1b)~~
 (21) G.S. 143B-135.182(a)(2) shall assist each North Carolina Aquarium in its efforts to establish
 (22) projects and programs and to assure adequate citizen-consumer input into those efforts.
 (23) Members of these committees shall be appointed by the Secretary of ~~Environment and Natural~~
 (24) and Cultural Resources for three-year terms from nominations made by the Director of the
 (25) Office of Marine Affairs. Each committee shall select one of its members to serve as
 (26) chairperson. Members of the committees shall serve without compensation for services or
 (27) expenses.

(28) **"§ 143B-135.188. North Carolina Aquariums; fees; fund.**

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

- (32) (1) Gate admission fees.
- (33) (2) Facility rental fees.
- (34) (3) Educational programs.

(35) (b) Fund. – The North Carolina Aquariums Fund is hereby created as a special ~~and~~
 (36) ~~nonreverting~~ fund. The North Carolina Aquariums Fund shall be used for the following:

- (37) (1) ~~repair, Repair, renovation, expansion, maintenance, and educational exhibit~~
 (38) ~~construction, and operational expenses~~ construction at existing aquariums,
 (39) aquariums.
- (40) (2) ~~to pay~~ Payment of the debt service and lease payments related to the
 (41) financing of expansions of ~~aquariums, aquariums.~~
- (42) (3) ~~and to match~~ Matching of private funds that are raised for these purposes.

(43) (c) Disposition of Fees. – All entrance fee receipts shall be credited to the ~~North~~
 (44) ~~Carolina Aquariums Fund. Receipts so credited that are necessary to support the personnel and~~
 (45) ~~operational expenses of the aquariums shall be transferred to the aquariums' General Fund~~
 (46) ~~operating budget on a monthly basis.~~ budget. In each fiscal year, the Secretary may transfer the
 (47) receipts from the North Carolina aquariums' General Fund to the North Carolina Aquariums
 (48) Fund in an amount not to exceed the sum of the following:

- (49) (1) One million dollars (\$1,000,000).
- (50) (2) The amount needed to cover the expenses described by subdivision (2) of
 (51) subsection (b) this section.

1 (d) Approval. – The Secretary may approve the use of the North Carolina Aquariums
 2 Fund for repair and renovation projects at the aquariums related facilities that comply with the
 3 following:

4 (1) The total project cost is less than two hundred fifty thousand dollars
 5 (\$250,000).

6 (2) The project meets the requirements of G.S. 143C-4-3(b).

7 ~~(d)(e) Report. – The Division of North Carolina Aquariums shall submit to the Joint~~
 8 ~~Legislative Commission on Governmental Operations, the House and Senate Appropriations~~
 9 ~~Subcommittees on Natural and Economic Resources, appropriations committees with~~
 10 ~~jurisdiction over natural and economic resources, and the Fiscal Research Division by~~
 11 ~~September 30 of each year a report on the North Carolina Aquariums Fund that shall include~~
 12 ~~the source and amounts of all funds credited to the Fund and the purpose and amount of all~~
 13 ~~expenditures from the Fund during the prior fiscal year.~~

14"

15 **SECTION 14.30.(o)** Part 38 of Article 2 of Chapter 143B of the General Statutes,
 16 as recodified by subsection (h) of this section, reads as rewritten:

17 "Part 38. North Carolina Parks and Recreation Authority.

18 "**§ 143B-135.200. North Carolina Parks and Recreation Authority; creation; powers and**
 19 **duties.**

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

23 (1) To receive public and private donations, appropriations, grants, and revenues
 24 for deposit into the Parks and Recreation Trust Fund.

25 (2) To allocate funds for land acquisition from the Parks and Recreation Trust
 26 Fund.

27 (3) To allocate funds for repairs, renovations, improvements, construction, and
 28 other capital projects from the Parks and Recreation Trust Fund.

29 (4) To solicit financial and material support from public and private sources.

30 (5) To develop effective public and private support for the programs and
 31 operations of the parks and recreation areas.

32 (6) To consider and to advise the Secretary of ~~Environment and Natural~~ and
 33 Cultural Resources on any matter the Secretary may refer to the North
 34 Carolina Parks and Recreation Authority.

35 "**§ 143B-135.202. North Carolina Parks and Recreation Authority; members; selection;**
 36 **compensation; meetings.**

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

42 (1) One member appointed by the Governor.

43 (2) One member appointed by the Governor.

44 (3) One member appointed by the Governor.

45 ~~(3a) Repealed by Session Laws 2013-360, s. 14.5(a), effective July 1, 2013.~~

46 ~~(3b) Repealed by Session Laws 2013-360, s. 14.5(a), effective July 1, 2013.~~

47 (4) One member appointed by the General Assembly upon the recommendation
 48 of the Speaker of the House of Representatives, as provided in G.S. 120-121.

49 (5) One member appointed by the General Assembly upon the recommendation
 50 of the Speaker of the House of Representatives, as provided in G.S. 120-121.

- 1 (6) One member appointed by the General Assembly upon the recommendation
2 of the Speaker of the House of Representatives, as provided in G.S. 120-121.
3 ~~(7) Repealed by Session Laws 2013-360, s. 14.5(a), effective July 1, 2013.~~
4 ~~(7a) Repealed by Session Laws 2013-360, s. 14.5(a), effective July 1, 2013.~~
5 ~~(8)(7)~~ One member appointed by the General Assembly upon the recommendation
6 of the President Pro Tempore of the Senate, as provided in G.S. 120-121.
7 ~~(9)(8)~~ One member appointed by the General Assembly upon the recommendation
8 of the President Pro Tempore of the Senate, as provided in G.S. 120-121.
9 ~~(10)(9)~~ One member appointed by the General Assembly upon the recommendation
10 of the President Pro Tempore of the Senate, as provided in G.S. 120-121.
11 ~~(11) Repealed by Session Laws 2013-360, s. 14.5(a), effective July 1, 2013.~~
12 ~~(12) Repealed by Session Laws 2013-360, s. 14.5(a), effective July 1, 2013.~~

13 (b) Terms. – Members shall serve staggered terms of office of three years. Members
14 shall serve no more than two consecutive three-year terms. After serving two consecutive
15 three-year terms, a member is not eligible for appointment to the Authority for at least one year
16 after the expiration date of that member's most recent term. Upon the expiration of a three-year
17 term, a member may continue to serve until a successor is appointed and duly qualified as
18 provided by G.S. 128-7. The terms of members appointed under subdivision (1), (5), or ~~(9)-(8)~~
19 of subsection (a) of this section shall expire on July 1 of years that are evenly divisible by three.
20 The terms of members appointed under subdivision (2), (4), or ~~(8)-(7)~~ of subsection (a) of this
21 section shall expire on July 1 of years that follow by one year those years that are evenly
22 divisible by three. The terms of members appointed under subdivision (3), (6), or ~~(10)-(9)~~ of
23 subsection (a) of this section shall expire on July 1 of years that precede by one year those
24 years that are evenly divisible by three.

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

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

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

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

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

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

43 (i) Staff. – All clerical and other services required by the North Carolina Parks and
44 Recreation Authority shall be provided by the Secretary of ~~Environment and Natural~~ Cultural Resources.
45 "

46 **SECTION 14.30.(p)** Part 39 of Article 2 of Chapter 143B of the General Statutes,
47 as recodified by subsection (i) of this section, reads as rewritten:

48 "Part 39. North Carolina Zoological Park Council.

49 "§ 143B-135.205. North Carolina Zoological Park Council – creation; powers and duties.

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

- 4 (1) To advise the Secretary on the basic concepts of and for the Zoological Park,
5 approve conceptual plans for the Zoological Park and its ~~buildings;~~buildings.
6 (2) To advise on the construction, furnishings, equipment and operations of the
7 North Carolina Zoological ~~Park;~~Park.
8 ~~(2a)~~(3) To establish and set admission fees with the approval of the Secretary of
9 ~~Environment and Natural~~ and Cultural Resources as provided in
10 ~~G.S. 143-177.3(b);~~G.S. 143B-135.213.
11 ~~(3)~~(4) To recommend programs to promote public appreciation of the North
12 Carolina Zoological ~~Park;~~Park.
13 ~~(4)~~(5) To disseminate information on animals and the park as deemed
14 ~~necessary;~~necessary.
15 ~~(5)~~(6) To develop effective public support of the North Carolina Zoological Park
16 through whatever means are desirable and ~~necessary;~~necessary.
17 ~~(6)~~(7) To solicit financial and material support from various private sources within
18 and without the State of North ~~Carolina;~~ and Carolina.
19 ~~(7)~~(8) To advise the Secretary of ~~Environment and Natural~~ and Cultural Resources
20 upon any matter the Secretary may refer to it.

21 "**§ 143B-135.207. North Carolina Zoological Park Council – members; selection;
22 removal; chairman; compensation; quorum; services.**

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

27 ~~The initial members of the Council shall be the members of the Board of Directors of the~~
28 ~~North Carolina Zoo Authority who shall serve for a period equal to the remainder of their~~
29 ~~current terms on the Board of Directors of the North Carolina Zoological Authority, all of~~
30 ~~whose terms expire July 15, 1975. At the end of the respective terms of office of the initial~~
31 ~~members of the Council, the Governor, to achieve staggered terms, shall appoint five members~~
32 ~~for terms of two years, five members for terms of four years and five members for terms of six~~
33 ~~years. Thereafter, the appointment of their successors shall be for terms of six years and until~~
34 ~~their successors are appointed and qualify. Any appointment to fill a vacancy on the Council~~
35 ~~created by the resignation, dismissal, death or disability of a member shall be for the balance of~~
36 ~~the unexpired term.~~

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

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

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

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

43 All clerical and other services required by the Council shall be supplied by the Secretary of
44 ~~Environment and Natural~~ and Cultural Resources.

45 "**§ 143B-135.209. Special North Carolina Zoo Fund.**

46 ~~A special continuing and nonreverting fund, to be called the Special Zoo Fund, is created.~~
47 ~~The North Carolina Zoological Park shall retain unbudgeted receipts at the end of each fiscal~~
48 ~~year, beginning June 30, 1989, and deposit these receipts into this Fund. This Fund shall be~~
49 ~~used for maintenance, repairs, and renovations of exhibits in existing habitat clusters and visitor~~
50 ~~services facilities, construction of visitor services facilities and support facilities such as~~
51 ~~greenhouses and temporary animal holding areas, for the replacement of tram equipment as~~

1 required to maintain adequate service to the public, and for marketing the Zoological Park. The
2 Special Zoo Fund may also be used to match private funds that are raised for these purposes.
3 Funds may be expended for these purposes by the Department of Environment and Natural
4 Resources on the advice of the North Carolina Zoological Park Council and with the approval
5 of the Office of State Budget and Management. The Department of Environment and Natural
6 Resources shall provide a report on or before October 1 of each year to the Office of State
7 Budget and Management, the Fiscal Research Division of the General Assembly, and to the
8 Joint Legislative Commission on Governmental Operations on the use of fees collected
9 pursuant to this section.

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

13 (1) Repair, renovation, expansion, maintenance, and educational exhibit
14 construction.

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

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

20 (b) Disposition of Fees. – All fee receipts shall be credited to the North Carolina
21 Zoological Park's General Fund operating budget. In each fiscal year, the Secretary may
22 transfer fee receipts from the North Carolina Zoological Park's General Fund to the North
23 Carolina Zoo Fund in an amount not to exceed one million dollars (\$1,000,000).

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

27 (1) The total project cost is less than two hundred fifty thousand dollars
28 (\$250,000).

29 (2) The project meets the requirements of G.S. 143C-4-3(b).

30 (d) Report. – The Department shall submit to the House and Senate appropriations
31 committees with jurisdiction over natural and economic resources and the Fiscal Research
32 Division by September 30 of each year a report on the North Carolina Zoo Fund that shall
33 include the source and amounts of all funds credited to the Fund and the purpose and amount of
34 all expenditures from the Fund during the prior fiscal year."

35 **SECTION 14.30.(q)** G.S. 143B-135.210 through G.S. 143B-135.213, as recodified
36 by subsection (j) of this section, read as rewritten:

37 **"§ 143-135.210. Right to receive gifts.**

38 In order to carry out the purposes of this ~~Article, Part~~, the ~~Board Council~~ is authorized to
39 acquire by gift or will, absolutely or in trust, from individuals, corporations, or any other source
40 money or other property, or any interests in property, which may be retained, sold or otherwise
41 used to promote the purposes of this ~~Article, Part~~. The use of gifts shall be subject to such
42 limitations as may be imposed thereon by donors, notwithstanding any other provisions of this
43 ~~Article, Part~~.

44 **"§ 143-135.211. Tax exemption for gifts to North Carolina Zoological Park ~~Fund, Park~~.**

45 All gifts made to the North Carolina Zoological Park for the purposes of this ~~Article, Part~~
46 shall be exempt from every form of taxation including, but not by the way of limitation, ad
47 valorem, intangible, gift, inheritance and income taxation. Proceeds from the sale of any
48 property acquired under the provisions of this ~~Article, Part~~ shall be deposited in the North
49 Carolina State treasury and shall be credited to the North Carolina Zoological Park.

50 **"§ 143-135.212. Cities and counties.**

1 Cities and counties are hereby authorized to expend funds derived from nontax sources and
2 to make gifts of surplus property, to assist in carrying out the purposes of this ~~Article~~Part.

3 **"§ 143-135.213. Sources of funds.**

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

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

15 **SECTION 14.30.(r)** Part 40 of Article 2 of Chapter 143B of the General Statutes,
16 as recodified by subsection (k) of this section, reads as rewritten:

17 "Part 40. ~~Advisory Commission for~~ North Carolina State Museum of Natural Sciences.

18 **"§ 143B-135.215. Commission created; membership.**

19 There is created an Advisory Commission for the North Carolina State Museum of Natural
20 Sciences which shall determine its own organization. It shall consist of at least nine members,
21 which shall include the Director of the North Carolina State Museum of Natural Sciences, the
22 Commissioner of Agriculture, the State Geologist and Secretary of ~~Environment and Natural~~
23 and Cultural Resources, the Director of the Institute of Fisheries Research of the University of
24 North Carolina, the Director of the Wildlife Resources Commission, the Superintendent of
25 Public Instruction, or qualified representative of any or all of the above-named members, and at
26 least three persons representing the East, the Piedmont, and the Western areas of the State.
27 Members appointed by the Governor shall serve for four-year staggered terms. Terms shall
28 begin on 1 September. Members appointed by the Governor shall not serve more than three
29 consecutive four-year terms. Any member may be removed by the Governor for cause.

30 ...

31 **"§ 143B-135.221. Reports to General Assembly.**

32 The Commission shall prepare and submit a report outlining the needs of the North
33 Carolina State Museum of Natural Sciences and recommendations for improvement of the
34 effectiveness of the North Carolina State Museum of Natural Sciences for the purpose
35 hereinabove set forth to ~~the 1995 General Assembly, and to each succeeding the~~ General
36 Assembly, to the Fiscal Research Division of the General Assembly, and to the Joint
37 Legislative Commission on Governmental Operations on or before October 1 of each year.

38 **"§ 143B-135.223. Museum of Natural Sciences; disposition of objects.**

39 Notwithstanding Article 3A of Chapter 143 of the General Statutes, G.S. 143-49(4), or any
40 other law pertaining to surplus State property, the Department of ~~Environment and Natural~~ and
41 Cultural Resources may sell or exchange any object from the collection of the Museum of
42 Natural Sciences when it would be in the best interest of the Museum to do so. Sales or
43 exchanges shall be conducted in accordance with generally accepted practices for accredited
44 museums. If an object is sold, the net proceeds of the sale shall be deposited in the State
45 treasury to the credit of a special fund to be used for the improvement of the Museum's
46 collections or exhibits.

47 **"§ 143B-135.225. Museum of Natural Sciences; fees; fund.**

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

1 **(b) Disposition of Fees.** – All fee receipts shall be credited to the North Carolina
 2 Museum of Natural Sciences' General Fund operating budget. In each fiscal year, the Secretary
 3 may transfer fee receipts from the North Carolina Museum of Natural Sciences' General Fund
 4 to the North Carolina Museum Fund in an amount not to exceed one million dollars
 5 (\$1,000,000).

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

9 **(1)** The total project cost is less than two hundred fifty thousand dollars
 10 (\$250,000).

11 **(2)** The project meets the requirements of G.S. 143C-4-3(b).

12 **(d) Report.** – The Department shall submit to the House and Senate appropriations
 13 committees with jurisdiction over natural and economic resources and the Fiscal Research
 14 Division by September 30 of each year a report on the North Carolina Museum Fund that shall
 15 include the source and amounts of all funds credited to the Fund and the purpose and amount of
 16 all expenditures from the Fund during the prior fiscal year.

17 **"§ 143B-135.229. North Carolina Museum of Forestry; ~~Museum of Natural Sciences at~~**
 18 **Whiteville; satellite museum.**

19 The Department of ~~Environment and Natural and Cultural Resources~~ shall establish and
 20 administer the North Carolina Museum of ~~Forestry~~ Museum of Natural Sciences at Whiteville
 21 in Columbus County as a satellite museum of the North Carolina State Museum of Natural
 22 Sciences."
 23

24 **CHANGES TO STATUTORY REFERENCES TO DEPARTMENTS**

25 **SECTION 14.30.(s)** The following statutes are amended by deleting the language
 26 "Department of Cultural Resources" wherever it appears and substituting "Department of
 27 Natural and Cultural Resources": G.S. 7A-343.1, G.S. 7B-3000, G.S. 8-6, G.S. 8-7, G.S. 8-34,
 28 G.S. 14-76.1, G.S. 15C-7, G.S. 20-79.4, G.S. 20-81.12, G.S. 62-102, G.S. 65-85, G.S. 70-2,
 29 G.S. 70-13, G.S. 70-13.1, G.S. 70-16, G.S. 70-18, G.S. 70-19, G.S. 70-20, G.S. 70-28,
 30 G.S. 70-31, G.S. 70-48, G.S. 70-49, G.S. 70-50, G.S. 70-51, G.S. 70-52, G.S. 75D-5,
 31 G.S. 97-24, G.S. 100-2, G.S. 102-17, G.S. 105-129.36A, G.S. 105-256, G.S. 111-28,
 32 G.S. 111-47.2, G.S. 115C-218.25, G.S. 120-37, G.S. 121-2, G.S. 121-3, G.S. 121-4,
 33 G.S. 121-4.1, G.S. 121-5, G.S. 121-5.1, G.S. 121-6, G.S. 121-7, G.S. 121-7.1, G.S. 121-7.2,
 34 G.S. 121-7.3, G.S. 121-7.4, G.S. 121-7.5, G.S. 121-7.6, G.S. 121-8, G.S. 121-9, G.S. 121-9.1,
 35 G.S. 121-10, G.S. 121-11, G.S. 121-12, G.S. 121-12.1, G.S. 121-12.2, G.S. 121-13,
 36 G.S. 121-14, G.S. 121-15, G.S. 121-16, G.S. 121-18, G.S. 121-20, G.S. 121-23, G.S. 121-24,
 37 G.S. 121-25, G.S. 121-25.1, G.S. 121-26, G.S. 121-27, G.S. 125-1, G.S. 125-2, G.S. 125-5,
 38 G.S. 125-7, G.S. 125-8, G.S. 125-10, G.S. 125-11.8, G.S. 125-14, G.S. 126-5, G.S. 130A-93,
 39 G.S. 132-3, G.S. 132-4, G.S. 132-8, G.S. 132-8.1, G.S. 132-8.2, G.S. 136-42.1, G.S. 136-42.2,
 40 G.S. 136-42.3, G.S. 136-43.1, G.S. 140-5.12, G.S. 140-5.13, G.S. 140-5.14, G.S. 142-13,
 41 G.S. 143-138, G.S. 143-268, G.S. 143-300, G.S. 143-406, G.S. 143-410, G.S. 143-411,
 42 G.S. 143-431, G.S. 143-432, G.S. 143-640, G.S. 143-641, G.S. 143-642, G.S. 143-675,
 43 G.S. 143-676, G.S. 143-677, G.S. 143B-2, G.S. 143B-6, G.S. 143B-49, G.S. 143B-51,
 44 G.S. 143B-53.1, G.S. 143B-53.2, G.S. 143B-53.3, G.S. 143B-62, G.S. 143B-63, G.S. 143B-67,
 45 G.S. 143B-68, G.S. 143B-71, G.S. 143B-72, G.S. 143B-73, G.S. 143B-73.1, G.S. 143B-74,
 46 G.S. 143B-74.2, G.S. 143B-79, G.S. 143B-85, G.S. 143B-87.2, G.S. 143B-90, G.S. 143B-95,
 47 G.S. 143B-111, G.S. 143B-121, G.S. 143B-123, G.S. 143B-124, G.S. 143B-125,
 48 G.S. 143B-126, G.S. 143B-127, G.S. 143B-131.1, G.S. 143B-131.2, G.S. 143B-131.8A,
 49 G.S. 143B-131.9, G.S. 143B-133, G.S. 143B-135, G.S. 143B-181, G.S. 143B-417,
 50 G.S. 143B-948, G.S. 150B-1, G.S. 153A-266, G.S. 153A-373, G.S. 160A-400.4,
 51 G.S. 160A-400.6, G.S. 160A-433, G.S. 161-11.5, G.S. 163-82.10, G.S. 163-278.22,

1 G.S. 163-278.30. In any other instances in the General Statutes in which there is a reference to
2 the Department of Cultural Resources or a derivative thereof, the Revisor of Statutes may
3 replace that reference with a reference to the Department of Natural and Cultural Resource, as
4 appropriate.

5 **SECTION 14.30.(t)** The following statutes are amended by deleting the language
6 "Secretary of Cultural Resources" wherever it appears and substituting "Secretary of Natural
7 and Cultural Resources": G.S. 20-79.5, G.S. 47-16.5, G.S. 116B-70, G.S. 121-2, G.S. 121-9,
8 G.S. 121-10, G.S. 121-12.2, G.S. 125-2, G.S. 125-9, G.S. 125-11.11, G.S. 132-8,
9 G.S. 136-43.1, G.S. 140-5.14, G.S. 140-5.15, G.S. 143-200, G.S. 143-201, G.S. 143-204.8,
10 G.S. 143-675, G.S. 143-676, G.S. 143B-52, G.S. 143B-62, G.S. 143B-63, G.S. 143B-72,
11 G.S. 143B-74, G.S. 143B-74.1, G.S. 143B-79, G.S. 143B-80, G.S. 143B-83, G.S. 143B-84,
12 G.S. 143B-87, G.S. 143B-88, G.S. 143B-90, G.S. 143B-91, G.S. 143B-97, G.S. 143B-98,
13 G.S. 143B-99, G.S. 143B-101, G.S. 143B-102, G.S. 143B-105, G.S. 143B-106,
14 G.S. 143B-109, G.S. 143B-110, G.S. 143B-114, G.S. 143B-115, G.S. 143B-131.2,
15 G.S. 143B-133, G.S. 143B-135, G.S. 147-54.3, G.S. 153A-267. In any other instances in the
16 General Statutes in which there is a reference to the Secretary of Cultural Resources or a
17 derivative thereof, the Revisor of Statutes may replace that reference with a reference to the
18 Secretary of Natural and Cultural Resources, as appropriate.

19 **SECTION 14.30.(u)** The following statutes are amended by deleting the language
20 "Department of Environment and Natural Resources" wherever it appears and substituting
21 "Department of Environmental Quality": G.S. 14-86.2, G.S. 14-137, G.S. 15A-1343,
22 G.S. 18B-902, G.S. 20-85, G.S. 20-128, G.S. 20-183.7, G.S. 62-102, G.S. 62-110.1,
23 G.S. 62-133.6, G.S. 62-133.8, G.S. 62-302.1, G.S. 69-25.5, G.S. 74-38, G.S. 74-49, G.S. 74-53,
24 G.S. 74-76, G.S. 75A-17, G.S. 76-40, G.S. 77-90, G.S. 77-95, G.S. 77-114, G.S. 77-125,
25 G.S. 77-127, G.S. 77-141, G.S. 77-142, G.S. 87-85, G.S. 87-95, G.S. 87-97, G.S. 87-98.2,
26 G.S. 90A-21, G.S. 90A-25, G.S. 90A-47.3, G.S. 95-225, G.S. 100-2, G.S. 104E-7,
27 G.S. 104E-15, G.S. 104E-24, G.S. 105-122, G.S. 105-129.81, G.S. 105-130.10,
28 G.S. 105-187.24, G.S. 105-187.63, G.S. 105-259, G.S. 105-275, G.S. 105-277.13,
29 G.S. 105-449.107, G.S. 106-24, G.S. 106-143, G.S. 106-678, G.S. 106-762, G.S. 106-805,
30 G.S. 106-806, G.S. 106-860, G.S. 110-92, G.S. 110-142.2, G.S. 113-1, G.S. 113-3, G.S. 113-8,
31 G.S. 113-8.01, G.S. 113-14.1, G.S. 113-14.3, G.S. 113-16, G.S. 113-17, G.S. 113-18,
32 G.S. 113-19, G.S. 113-20, G.S. 113-21, G.S. 113-25, G.S. 113-26.1, G.S. 113-128,
33 G.S. 113-168, G.S. 113-174, G.S. 113-251, G.S. 113-300.6, G.S. 113-378, G.S. 113-389,
34 G.S. 113-425, G.S. 113A-52, G.S. 113A-103, G.S. 113A-104, G.S. 113A-113, G.S. 113A-118,
35 G.S. 113A-129.2, G.S. 113A-134.11, G.S. 113A-134.12, G.S. 113A-153, G.S. 113A-164.12,
36 G.S. 113A-167, G.S. 113A-168, G.S. 113A-169, G.S. 113A-170, G.S. 113A-221,
37 G.S. 113A-230, G.S. 113A-231, G.S. 113A-232, G.S. 113A-235, G.S. 113A-253,
38 G.S. 113A-255, G.S. 113B-2, G.S. 113B-6, G.S. 113B-11, G.S. 113B-30, G.S. 115C-522,
39 G.S. 120-70.43, G.S. 120-76, G.S. 121-4, G.S. 126-5, G.S. 128-1.1, G.S. 130A-1.1,
40 G.S. 130A-4, G.S. 130A-24, G.S. 130A-26.1, G.S. 130A-33.50, G.S. 130A-47,
41 G.S. 130A-131.7, G.S. 130A-290, G.S. 130A-295.9, G.S. 130A-301, G.S. 130A-309.14,
42 G.S. 130A-309.140, G.S. 130A-310.60, G.S. 130A-313, G.S. 130A-336, G.S. 130A-481,
43 G.S. 136-21, G.S. 136-28.8, G.S. 136-44.7B, G.S. 136-44.7D, G.S. 136-44.36D, G.S. 136-123,
44 G.S. 136-202, G.S. 139-8, G.S. 139-46, G.S. 143-58.2, G.S. 143-58.4, G.S. 143-64.11,
45 G.S. 143-64.12, G.S. 143-64.17F, G.S. 143-64.17G, G.S. 143-64.17H, G.S. 143-138,
46 G.S. 143-166.13, G.S. 143-211, G.S. 143-212, G.S. 143-214.7A, G.S. 143-214.8,
47 G.S. 143-214.13, G.S. 143-214.25A, G.S. 143-215.8D, G.S. 143-215.9B, G.S. 143-215.9C,
48 G.S. 143-215.73A, G.S. 143-215.77, G.S. 143-215.94I, G.S. 143-215.94L,
49 G.S. 143-215.94HH, G.S. 143-215.107B, G.S. 143-215.107C, G.S. 143-228.10, G.S. 143-240,
50 G.S. 143-252, G.S. 143-253, G.S. 143-286.1, G.S. 143-289, G.S. 143-320, G.S. 143-323,
51 G.S. 143-350, G.S. 143-355, G.S. 143-355.2, G.S. 143-436, G.S. 143-439, G.S. 143B-2,

1 G.S. 143B-6, G.S. 143B-131.2, G.S. 143B-181, G.S. 143B-279.1, G.S. 143B-279.2,
2 G.S. 143B-279.3, G.S. 143B-279.4, G.S. 143B-279.5, G.S. 143B-279.7, G.S. 143B-279.8,
3 G.S. 143B-279.9, G.S. 143B-279.10, G.S. 143B-279.11, G.S. 143B-279.12, G.S. 143B-279.13,
4 G.S. 143B-279.14, G.S. 143B-279.15, G.S. 143B-279.16, G.S. 143B-279.17, G.S. 143B-281.1,
5 G.S. 143B-282, G.S. 143B-282.1, G.S. 143B-283, G.S. 143B-284, G.S. 143B-285,
6 G.S. 143B-285.22, G.S. 143B-289.50, G.S. 143B-289.51, G.S. 143B-289.52,
7 G.S. 143B-289.61, G.S. 143B-290, G.S. 143B-293.1, G.S. 143B-298, G.S. 143B-299,
8 G.S. 143B-300, G.S. 143B-301, G.S. 143B-301.1, G.S. 143B-301.10, G.S. 143B-324.1,
9 G.S. 143B-324.2, G.S. 143B-344.34, G.S. 143B-344.35, G.S. 143B-344.36, G.S. 143B-344.37,
10 G.S. 143B-344.38, G.S. 143B-344.44, G.S. 143B-344.50, G.S. 143B-344.55, G.S. 143B-417,
11 G.S. 143B-431.01, G.S. 143B-437, G.S. 143B-437.01, G.S. 146-8, G.S. 147-33.104A,
12 G.S. 148-10, G.S. 150B-1, G.S. 150B-19.3, G.S. 153A-136, G.S. 153A-226, G.S. 153A-421,
13 G.S. 156-59, G.S. 156-74, G.S. 156-76, G.S. 156-83, G.S. 159G-20, G.S. 159C-7, G.S. 159D-7,
14 G.S. 159G-70, G.S. 159I-3, G.S. 162A-23, G.S. 162A-24, G.S. 162A-25, G.S. 162A-29,
15 G.S. 162A-30, G.S. 162A-33, G.S. 162A-35, G.S. 166A-19.3, G.S. 166A-26. In any other
16 instances in the General Statutes in which there is a reference to the Department of
17 Environment and Natural Resources or a derivative thereof, the Revisor of Statutes may replace
18 that reference with a reference to the Department of Environmental Quality, as appropriate.

19 **SECTION 14.30.(v)** The following statutes are amended by deleting the language
20 "Secretary of Environment and Natural Resources" wherever it appears and substituting
21 "Secretary of Environmental Quality": G.S. 7A-29, G.S. 20-79.5, G.S. 47C-3-122,
22 G.S. 47F-3-122, G.S. 58-78-1, G.S. 62-133.6, G.S. 68-43, G.S. 77-95, G.S. 77-114,
23 G.S. 77-130, G.S. 87-94, G.S. 87-95, G.S. 87-98.2, G.S. 90A-21, G.S. 90A-22, G.S. 90A-23,
24 G.S. 90A-24, G.S. 90A-25.1, G.S. 90A-28, G.S. 90A-30, G.S. 90A-37, G.S. 90A-38,
25 G.S. 90A-39, G.S. 90A-43, G.S. 104E-5, G.S. 104E-17, G.S. 105-129.83, G.S. 105-187.84,
26 G.S. 105-259, G.S. 106-744, G.S. 113-1, G.S. 113-128, G.S. 113-182.1, G.S. 113-221.4,
27 G.S. 113-300.7, G.S. 113A-24, G.S. 113A-52, G.S. 113A-103, G.S. 113A-107,
28 G.S. 113A-115.1, G.S. 113A-164.3, G.S. 113A-166, G.S. 113A-208, G.S. 113A-212,
29 G.S. 113A-221, G.S. 113A-234, G.S. 113A-241, G.S. 113A-258, G.S. 113A-259, G.S. 113B-2,
30 G.S. 113B-3, G.S. 120-150, G.S. 130A-4, G.S. 130A-17, G.S. 130A-18, G.S. 130A-19,
31 G.S. 130A-20, G.S. 130A-22, G.S. 130A-23, G.S. 130A-27, G.S. 130A-47, G.S. 130A-290,
32 G.S. 130A-301, G.S. 130A-313, G.S. 130A-334, G.S. 136-102.3, G.S. 143-58.4, G.S. 143-212,
33 G.S. 143-215.8D, G.S. 143-215.18, G.S. 143-215.22L, G.S. 143-215.40, G.S. 143-215.70,
34 G.S. 143-215.77, G.S. 143-215.86, G.S. 143-215.94HH, G.S. 143-215.107D,
35 G.S. 143-215.126, G.S. 143-243, G.S. 143-320, G.S. 143-726, G.S. 143B-86, G.S. 143B-115,
36 G.S. 143B-279.4, G.S. 143B-279.5, G.S. 143B-279.7, G.S. 143B-279.8, G.S. 143B-281.1,
37 G.S. 143B-282.1, G.S. 143B-283, G.S. 143B-285.23, G.S. 143B-289.50, G.S. 143B-289.53,
38 G.S. 143B-291, G.S. 143B-293.2, G.S. 143B-300, G.S. 143B-301, G.S. 143B-324.1,
39 G.S. 143B-407, G.S. 143B-411.1, G.S. 143B-426.25, G.S. 143B-431.01, G.S. 148-26,
40 G.S. 153A-301, G.S. 158-7.3, G.S. 159G-20, G.S. 159I-7, G.S. 160A-515.1, G.S. 162A-33,
41 G.S. 162A-35. In any other instances in the General Statutes in which there is a reference to the
42 Secretary of Environment and Natural Resources or a derivative thereof, the Revisor of Statutes
43 may replace that reference with a reference to the Secretary of Environmental Quality, as
44 appropriate.

45 **SECTION 14.30.(w)** The following statutes are amended by deleting the language
46 "Department of Environment and Natural Resources" wherever it appears and substituting
47 "Department of Natural and Cultural Resources": G.S. 100-11, G.S. 100-12, G.S. 100-13,
48 G.S. 100-14, G.S. 146-30. In any other instances in the General Statutes in which there is a
49 reference to the Department of Environment and Natural Resources or a derivative thereof, the
50 Revisor of Statutes may replace that reference with a reference to the Department of Natural
51 and Cultural Resources, as appropriate.

1 **SECTION 14.30.(x)** The following statutes are amended by deleting the language
2 "Secretary of the Department of Cultural Resources" wherever it appears and substituting
3 "Secretary of Natural and Cultural Resources": G.S. 70-1, G.S. 70-3, G.S. 70-4,
4 G.S. 113A-259, G.S. 116-37.1, G.S. 116-65, G.S. 121-13, G.S. 132-5.1, G.S. 143-640,
5 G.S. 143B-53.2, G.S. 143B-131.1, G.S. 143B-131.2, G.S. 143B-131.6, G.S. 143B-131.9. In
6 any other instances in the General Statutes in which there is a reference to the Secretary of the
7 Department of Cultural Resources or a derivative thereof, the Revisor of Statutes may replace
8 that reference with a reference to the Secretary of Natural and Cultural Resources, as
9 appropriate.

10 **SECTION 14.30.(y)** The following statutes are amended by deleting the language
11 "Secretary of the Department of Environment and Natural Resources" wherever it appears and
12 substituting "Secretary of Environmental Quality": G.S. 113-173.1, G.S. 127C-2. In any other
13 instances in the General Statutes in which there is a reference to the Secretary of the
14 Department of Environment and Natural Resources or a derivative thereof, the Revisor of
15 Statutes may replace that reference with a reference to the Secretary of Environmental Quality,
16 as appropriate.

17 18 **CONFORMING CHANGES**

19 **SECTION 14.30.(z)** The following statutes are amended by deleting the language
20 "Article 2C of Chapter 113" wherever it appears and substituting "Part 32 of Article 7 of
21 Chapter 143B": G.S. 20-81.12, G.S. 143-260.10, G.S. 143B-260.10C, G.S. 143B-260.10D,
22 G.S. 143B-260.10E.

23 **SECTION 14.30.(aa)** The following statutes are amended by deleting the language
24 "G.S. 113-44.14" wherever it appears and substituting "G.S. 143B-135.54": G.S. 143-260.10,
25 G.S. 143B-260.10C, G.S. 143B-260.10D, G.S. 143B-260.10G.

26 **SECTION 14.30.(bb)** G.S. 14-131 reads as rewritten:

27 **"§ 14-131. Trespass on land under option by the federal government.**

28 On lands under option which have formally or informally been offered to and accepted by
29 either the North Carolina Department of ~~Environment and Natural~~ and Cultural Resources or
30 the Department of Environmental Quality by the acquiring federal agency and tentatively
31 accepted by ~~said a~~ Department for administration as State forests, State parks, State game
32 refuges or for other public purposes, it shall be unlawful to cut, dig, break, injure or remove any
33 timber, lumber, firewood, trees, shrubs or other plants; or any fence, house, barn or other
34 structure; or to pursue, trap, hunt or kill any bird or other wild animals or take fish from streams
35 or lakes within the boundaries of such areas without the written consent of the local official of
36 the United States having charge of the acquisition of such lands.

37 Any person, firm or corporation convicted of the violation of this section shall be guilty of a
38 Class 3 misdemeanor.

39 The Department of ~~Environment and Natural Resources~~ Environmental Quality through its
40 legally appointed forestry, fish and game wardens is hereby authorized and empowered to assist
41 the county law-enforcement officers in the enforcement of this section."

42 **SECTION 14.30.(cc)** G.S. 14-415.11(c1) reads as rewritten:

43 "(c1) Any person who has a concealed handgun permit may carry a concealed handgun on
44 the grounds or waters of a park within the State Parks System as defined in
45 ~~G.S. 113-44.9~~ G.S. 143B-135.44."

46 **SECTION 14.30.(dd)** G.S. 20-79.7(b) reads as rewritten:

47 "(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate
48 and Cultural Attraction Plate Account are established within the Highway Fund. The Division
49 must credit the additional fee imposed for the special registration plates listed in subsection (a)
50 of this section among the Special Registration Plate Account (SRPA), the Collegiate and
51 Cultural Attraction Plate Account (CCAPA), the Clean Water Management Trust Fund

1 (CWMTF), which is established under G.S. 113A-253, and the Parks and Recreation Trust
2 Fund, which is established under ~~G.S. 113-44.15~~, G.S. 143B-135.56, as follows:
3"

4 **SECTION 14.30.(ee)** G.S. 20-125(b) reads as rewritten:

5 "(b) Every vehicle owned or operated by a police department or by the Department of
6 Public Safety including the State Highway Patrol or by the Wildlife Resources Commission or
7 the Division of Marine Fisheries, Fisheries of the Department of Environmental Quality, or by
8 the Division of Parks and Recreation of the Department of ~~Environment and Natural~~ and
9 Cultural Resources, or by the North Carolina Forest Service of the Department of Agriculture
10 and Consumer Services, and used exclusively for law enforcement, firefighting, or other
11 emergency response purposes, or by the Division of Emergency Management, or by a fire
12 department, either municipal or rural, or by a fire patrol, whether such fire department or patrol
13 be a paid organization or a voluntary association, vehicles used by an organ procurement
14 organization or agency for the recovery and transportation of human tissues and organs for
15 transplantation, and every ambulance or emergency medical service emergency support vehicle
16 used for answering emergency calls, shall be equipped with special lights, bells, sirens, horns or
17 exhaust whistles of a type approved by the Commissioner of Motor Vehicles.

18 The operators of all such vehicles so equipped are hereby authorized to use such equipment
19 at all times while engaged in the performance of their duties and services, both within their
20 respective corporate limits and beyond.

21 In addition to the use of special equipment authorized and required by this subsection, the
22 chief and assistant chiefs of any police department or of any fire department, whether the same
23 be municipal or rural, paid or voluntary, county fire marshals, assistant fire marshals, transplant
24 coordinators, and emergency management coordinators, are hereby authorized to use such
25 special equipment on privately owned vehicles operated by them while actually engaged in the
26 performance of their official or semiofficial duties or services either within or beyond their
27 respective corporate limits.

28 And vehicles driven by law enforcement officers of the North Carolina Division of Motor
29 Vehicles shall be equipped with a bell, siren, or exhaust whistle of a type approved by the
30 Commissioner, and all vehicles owned and operated by the State Bureau of Investigation for
31 the use of its agents and officers in the performance of their official duties may be equipped
32 with special lights, bells, sirens, horns or exhaust whistles of a type approved by the
33 Commissioner of Motor Vehicles.

34 Every vehicle used or operated for law enforcement purposes by the sheriff or any salaried
35 deputy sheriff or salaried rural policeman of any county, whether owned by the county or not,
36 may be, but is not required to be, equipped with special lights, bells, sirens, horns or exhaust
37 whistles of a type approved by the Commissioner of Motor Vehicles. Such special equipment
38 shall not be operated or activated by any person except by a law enforcement officer while
39 actively engaged in performing law enforcement duties.

40 In addition to the use of special equipment authorized and required by this subsection, the
41 chief and assistant chiefs of each emergency rescue squad which is recognized or sponsored by
42 any municipality or civil preparedness agency, are hereby authorized to use such special
43 equipment on privately owned vehicles operated by them while actually engaged in their
44 official or semiofficial duties or services either within or beyond the corporate limits of the
45 municipality which recognizes or sponsors such organization."

46 **SECTION 14.30.(ff)** G.S. 20-130.1(b)(18) reads as rewritten:

47 "(b) The provisions of subsection (a) of this section do not apply to the following:

48 ...

49 (18) A vehicle operated by the Division of Marine Fisheries of the Department of
50 Environmental Quality or the Division of Parks and Recreation of the

1 Department of ~~Environment and Natural~~ and Cultural Resources that is used
2 for law enforcement, firefighting, or other emergency response purpose."

3 **SECTION 14.30.(gg)** G.S. 20-145 reads as rewritten:

4 **"§ 20-145. When speed limit not applicable.**

5 The speed limitations set forth in this Article shall not apply to vehicles when operated with
6 due regard for safety under the direction of the police in the chase or apprehension of violators
7 of the law or of persons charged with or suspected of any such violation, nor to fire department
8 or fire patrol vehicles when traveling in response to a fire alarm, nor to public or private
9 ambulances and rescue squad emergency service vehicles when traveling in emergencies, nor
10 to vehicles operated by county fire marshals and civil preparedness coordinators when traveling
11 in the performances of their duties, nor to any of the following when either operated by a law
12 enforcement officer in the chase or apprehension of violators of the law or of persons charged
13 with or suspected of any such violation, when traveling in response to a fire alarm, or for other
14 emergency response purposes: (i) a vehicle operated by the Division of Marine Fisheries of the
15 Department of Environmental Quality or the Division of Parks and Recreation of the
16 Department of ~~Environment and Natural~~ and Cultural Resources or (ii) a vehicle operated by
17 the North Carolina Forest Service of the Department of Agriculture and Consumer Services.
18 This exemption shall not, however, protect the driver of any such vehicle from the consequence
19 of a reckless disregard of the safety of others."

20 **SECTION 14.30.(hh)** G.S. 20-156(b) reads as rewritten:

21 "(b) The driver of a vehicle upon the highway shall yield the right-of-way to police and
22 fire department vehicles and public and private ambulances, vehicles used by an organ
23 procurement organization or agency for the recovery or transportation of human tissues and
24 organs for transplantation or a vehicle operated by a transplant coordinator who is an employee
25 of an organ procurement organization or agency when the transplant coordinator is responding
26 to a call to recover or transport human tissues or organs for transplantation, and to rescue squad
27 emergency service vehicles and vehicles operated by county fire marshals and civil
28 preparedness coordinators, and to a vehicle operated by the Division of Marine Fisheries of the
29 Department of Environmental Quality or the Division of Parks and Recreation of the
30 Department of ~~Environment and Natural~~ and Cultural Resources when used for law
31 enforcement, firefighting, or other emergency response purpose, and to a vehicle operated by
32 the North Carolina Forest Service of the Department of Agriculture and Consumer Services
33 when used for a law enforcement, firefighting, or other emergency response purpose, when the
34 operators of said vehicles are giving a warning signal by appropriate light and by bell, siren or
35 exhaust whistle audible under normal conditions from a distance not less than 1,000 feet. When
36 appropriate warning signals are being given, as provided in this subsection, an emergency
37 vehicle may proceed through an intersection or other place when the emergency vehicle is
38 facing a stop sign, a yield sign, or a traffic light which is emitting a flashing strobe signal or a
39 beam of steady or flashing red light. This provision shall not operate to relieve the driver of a
40 police or fire department vehicle, or a vehicle owned or operated by the Department of
41 Environment and Natural Resources, or the Department of Agriculture and Consumer Services,
42 or public or private ambulance or vehicles used by an organ procurement organization or
43 agency for the recovery or transportation of human tissues and organs for transplantation or a
44 vehicle operated by a transplant coordinator who is an employee of an organ procurement
45 organization or agency when the transplant coordinator is responding to a call to recover or
46 transport human tissues or organs for transplantation, or rescue squad emergency service
47 vehicle or county fire marshals or civil preparedness coordinators from the duty to drive with
48 due regard for the safety of all persons using the highway, nor shall it protect the driver of any
49 such vehicle or county fire marshal or civil preparedness coordinator from the consequence of
50 any arbitrary exercise of such right-of-way."

51 **SECTION 14.30.(ii)** G.S. 20-157(a) reads as rewritten:

1 "(a) Upon the approach of any law enforcement or fire department vehicle or public or
 2 private ambulance or rescue squad emergency service vehicle, or a vehicle operated by the
 3 Division of Marine ~~Fisheries~~, Fisheries of the Department of Environmental Quality, or the
 4 Division of Parks and Recreation of the Department of ~~Environment and Natural and Cultural~~
 5 Resources, or the North Carolina Forest Service of the Department of Agriculture and
 6 Consumer Services when traveling in response to a fire alarm or other emergency response
 7 purpose, giving warning signal by appropriate light and by audible bell, siren or exhaust
 8 whistle, audible under normal conditions from a distance not less than 1000 feet, the driver of
 9 every other vehicle shall immediately drive the same to a position as near as possible and
 10 parallel to the right-hand edge or curb, clear of any intersection of streets or highways, and
 11 shall stop and remain in such position unless otherwise directed by a law enforcement or traffic
 12 officer until the law enforcement or fire department vehicle, or the vehicle operated by the
 13 Division of Marine ~~Fisheries~~, Fisheries of the Department of Environmental Quality, or the
 14 Division of Parks and Recreation of the Department of ~~Environment and Natural and Cultural~~
 15 Resources, or the North Carolina Forest Service of the Department of Agriculture and
 16 Consumer Services, or the public or private ambulance or rescue squad emergency service
 17 vehicle shall have passed. Provided, however, this subsection shall not apply to vehicles
 18 traveling in the opposite direction of the vehicles herein enumerated when traveling on a
 19 four-lane limited access highway with a median divider dividing the highway for vehicles
 20 traveling in opposite directions, and provided further that the violation of this subsection shall
 21 be negligence per se. Violation of this subsection is a Class 2 misdemeanor."

22 **SECTION 14.30.(jj)** G.S. 66-58 reads as rewritten:

23 "**§ 66-58. Sale of merchandise or services by governmental units.**

24 ...
 25 (b) The provisions of subsection (a) of this section shall not apply to:

26 ...
 27 (9) The Department of ~~Environment and Natural Resources~~, ~~except that the~~
 28 ~~Department shall not construct, maintain, operate or lease a hotel or tourist~~
 29 ~~inn in any park over which it has jurisdiction.~~Environmental Quality. The
 30 North Carolina Wildlife Resources Commission may sell wildlife
 31 memorabilia as a service to members of the public interested in wildlife
 32 conservation.

33 ...
 34 (9b) The Department of Natural and Cultural Resources for the sale of food
 35 pursuant to G.S. 111-47.2 and the sale of books, crafts, gifts, and other
 36 tourism-related items and revenues from public and private special events,
 37 activities, and programming at historic sites and museums administered by
 38 the Department, provided that the resulting profits are used to support the
 39 operation of historic sites or ~~museums~~museums and provided further that
 40 the Department shall not construct, maintain, operate, or lease a hotel or
 41 tourist inn in any park over which it has jurisdiction.

42 ...
 43 (c) The provisions of subsection (a) shall not prohibit:

44 ...
 45 (2) The sale of learned journals, works of art, books or publications of the
 46 Department of Natural and Cultural Resources or other agencies, or the
 47 Supreme Court Reports or Session Laws of the General Assembly.

48 ...
 49 (9b) The Department of Natural and Cultural Resources for the sale of food
 50 pursuant to G.S. 111-47.2 and the sale of books, crafts, gifts, and other
 51 tourism-related items and revenues from public and private special events,

1 activities, and programming at historic sites and museums administered by
2 the Department, provided that the resulting profits are used to support the
3 operation of historic sites or ~~museums~~ museums and provided further that
4 the Department shall not construct, maintain, operate, or lease a hotel or
5 tourist inn in any park over which it has jurisdiction.

6"

7 **SECTION 14.30.(kk)** G.S. 74-50(b3) reads as rewritten:

8 "(b3) When the Department receives an application for a new mining permit or for a
9 modification of a mining permit to add land to the permitted area, the Department shall send a
10 notice of the application to each of the following agencies with a request that each agency
11 review and provide written comment on the application within 30 days of the date on which the
12 request is made:

- 13 (1) Division of Air Quality, Department of ~~Environment and Natural~~
14 ~~Resources~~ Environmental Quality.
- 15 (2) Division of Parks and Recreation, Department of ~~Environment and Natural~~
16 ~~and Cultural Resources.~~
- 17 (3) Repealed by Session Laws 2013-413, s. 57(b), effective August 23, 2013.
- 18 (4) Division of Water Resources, Department of ~~Environment and Natural~~
19 ~~Resources~~ Environmental Quality.
- 20 (5) North Carolina Geological Survey, Division of Energy, Mineral, and Land
21 Resources, Department of ~~Environment and Natural~~
22 ~~Resources~~ Environmental Quality.
- 23 (6) Wildlife Resources Commission, Department of ~~Environment and Natural~~
24 ~~Resources~~ Environmental Quality.
- 25 (7) Office of Archives and History, Department of Cultural Resources.
- 26 (8) United States Fish and Wildlife Service, United States Department of the
27 Interior.
- 28 (9) Any other federal or State agency that the Department determines to be
29 appropriate, including the Division of Coastal Management, ~~Department of~~
30 ~~Environment and Natural Resources;~~ the Division of Marine Fisheries,
31 ~~Department of Environment and Natural Resources;~~ and the Division of
32 Waste Management, Management of the Department of Environment and
33 Natural Resources; Environmental Quality; and the Department of
34 Transportation."

35 **SECTION 14.30.(ll)** G.S. 106-202.17(b) reads as rewritten:

36 "(b) The Scientific Committee shall consist of the Directors of The University of North
37 Carolina at Chapel Hill Herbarium, the North Carolina State University Herbarium, the North
38 Carolina Botanical Garden of The University of North Carolina at Chapel Hill, the North
39 Carolina State Museum of Natural Sciences of the Department of Natural and Cultural
40 Resources, and the North Carolina Natural Heritage Program of the Department of
41 ~~Environment and Natural Resources~~ Environmental Quality or their designees, a representative
42 of the North Carolina Association of Nurserymen, Inc., appointed by the Commissioner, and a
43 representative of a conservation organization, appointed by the Commissioner. Members shall
44 serve for three-year terms and may succeed themselves."

45 **SECTION 14.30.(mm)** G.S. 106-803(a) reads as rewritten:

46 "**§ 106-803. Siting requirements for swine houses, lagoons, and land areas onto which**
47 **waste is applied at swine farms.**

48 (a) A swine house or a lagoon that is a component of a swine farm shall be located:

- 49 (1) At least 1,500 feet from any occupied residence.
- 50 (2) At least 2,500 feet from any school; hospital; church; outdoor recreational
51 facility; national park; State Park, as defined in ~~G.S. 113-44.9;~~

1 G.S. 143B-135.44; historic property acquired by the State pursuant to
2 G.S. 121-9 or listed in the North Carolina Register of Historic Places
3 pursuant to G.S. 121-4.1; or child care center, as defined in G.S. 110-86, that
4 is licensed under Article 7 of Chapter 110 of the General Statutes.

5 (3) At least 500 feet from any property boundary.

6 (4) At least 500 feet from any well supplying water to a public water system, as
7 defined in G.S. 130A-313.

8 (5) At least 500 feet from any other well that supplies water for human
9 consumption. This subdivision does not apply to a well located on the same
10 parcel or tract of land on which the swine house or lagoon is located and that
11 supplies water only for use on that parcel or tract of land or for use on
12 adjacent parcels or tracts of land all of which are under common ownership
13 or control."

14 **SECTION 14.30.(nn)** G.S. 113-8 reads as rewritten:

15 **"§ 113-8. Powers and duties of the Department.**

16 The Department shall make investigations of the natural resources of the State, and take
17 such measures as it may deem best suited to promote the conservation and development of such
18 resources.

19 It shall have the protection of lands and water supplies; it shall also have the care of ~~State~~
20 ~~parks, and other~~ recreational areas now owned or to be acquired by the State, including the
21 lakes referred to in G.S. 146-7.

22 It shall make such examination, survey and mapping of the geology, mineralogy and
23 topography of the State, including their industrial and economic utilization, as it may consider
24 necessary; make investigations of water supplies and water powers, prepare and maintain a
25 general inventory of the water resources of the State, and take such measures as it may consider
26 necessary to promote their development.

27 It shall have the duty of enforcing all laws relating to the conservation of marine and
28 estuarine resources.

29 The Department may take such other measures as it may deem advisable to obtain and
30 make public a more complete knowledge of the State and its resources, and it is authorized to
31 cooperate with other departments and agencies of the State in obtaining and making public such
32 information.

33 The Department may acquire such real and personal property as may be found desirable and
34 necessary for the performance of the duties and functions of the Department and pay for same
35 out of any funds appropriated for the Department or available unappropriated revenues of the
36 Department, when such acquisition is approved by the Governor and Council of State. The title
37 to any real estate acquired shall be in the name of the State of North Carolina for the use and
38 benefit of the Department."

39 **SECTION 14.30.(oo)** G.S. 113-28.1 reads as rewritten:

40 **"§ 113-28.1. Designated employees commissioned special peace officers by Governor.**

41 Upon application by either the Secretary of ~~Environment and Natural Resources, Natural~~
42 ~~and Cultural Resources or the Secretary of Environmental Quality,~~ the Governor is hereby
43 authorized and empowered to commission as special peace officers such of the employees of
44 the ~~Department of Environment and Natural Resources-Departments~~ as the Secretary may
45 designate for the purpose of enforcing the laws and rules enacted or adopted for the protection,
46 preservation and government of State parks, lakes, reservations and other lands or waters under
47 the control or supervision of the ~~Department of Environment and Natural Resources-respective~~
48 ~~Departments.~~"

49 **SECTION 14.30.(pp)** G.S. 113-28.2 reads as rewritten:

50 **"§ 113-28.2. Powers of arrest.**

1 Any employee of either the Department of ~~Environment and~~ Natural and Cultural
2 Resources or the Department of Environmental Quality commissioned as a special peace
3 officer shall have the right to arrest with warrant any person violating any law or rule on or
4 relating to the State parks, lakes, reservations and other lands or waters under the control or
5 supervision of the ~~Department of Environment and Natural Resources,~~ employee's respective
6 Department, and shall have the power to pursue and arrest without warrant any person violating
7 in his presence any law or rule on or relating to said parks, lakes, reservations and other lands
8 or waters under the control or supervision of the ~~Department of Environment and Natural~~
9 ~~Resources.~~ employee's respective Department."

10 **SECTION 14.30.(qq)** G.S. 113-28.2A reads as rewritten:

11 **"§ 113-28.2A. Cooperation between law enforcement agencies.**

12 Special peace officers employed by either the Department of ~~Environment and~~ Natural and
13 Cultural Resources or the Department of Environmental Quality are officers of a "law
14 enforcement agency" for purposes of G.S. 160A-288, and ~~the each~~ Department shall have the
15 same authority as a city or county governing body to approve cooperation between law
16 enforcement agencies under that section."

17 **SECTION 14.30.(rr)** G.S. 113-28.4 reads as rewritten:

18 **"§ 113-28.4. Oaths required.**

19 Before any employee of either the Department of ~~Environment and~~ Natural and Cultural
20 Resources or the Department of Environmental Quality commissioned as a special peace
21 officer shall exercise any power of arrest under this ~~Article~~ he Article, the employee shall take
22 the oaths required of public officers before an officer authorized to administer oaths."

23 **SECTION 14.30.(ss)** G.S. 113-307.1(a) reads as rewritten:

24 "(a) The consent of the General Assembly of North Carolina is hereby given to the
25 making by the Congress of the United States, or under its authority, of all such rules and
26 regulations as the federal government shall determine to be needful in respect to game animals,
27 game and nongame birds, and fish on such lands in the western part of North Carolina as shall
28 have been, or may hereafter be, purchased by the United States under the terms of the act of
29 Congress of March 1, 1911, entitled "An act to enable any state to cooperate with any other
30 state or states, or with the United States, for the protection of the watersheds of navigable
31 streams, and to appoint a commission for the acquisition of lands for the purposes of
32 conserving the navigability of navigable rivers" (36 Stat. 961), and acts of Congress
33 supplementary thereto and amendatory thereof, and in or on the waters thereon.

34 Nothing in this subsection shall be construed as conveying the ownership of wildlife from
35 the State of North Carolina or permit the trapping, hunting, or transportation of any game
36 animals, game or nongame birds, or fish by any person, including any agency, department, or
37 instrumentality of the United States or agents thereof, on the lands in North Carolina, as shall
38 have been or may hereafter be purchased by the United States under the terms of any act of
39 Congress, except in accordance with the provisions of this Subchapter and its implementing
40 regulations. Provided, that the provisions of ~~G.S. 113-39~~ G.S. 143B-135.20 apply with respect
41 to licenses.

42 Any person, including employees or agents of any department or instrumentality of the
43 United States, violating the provisions of this subsection is guilty of a Class 1 misdemeanor."

44 **SECTION 14.30.(tt)** G.S. 120-306(a)(1)c. is repealed.

45 **SECTION 14.30.(uu)** G.S. 121-7.7(c) reads as rewritten:

46 "(c) Reports. – The Department of Natural and Cultural Resources must submit to the
47 Joint Legislative Commission on Governmental Operations, the chairs of the House of
48 Representatives ~~and Appropriations Committee on Agriculture and Natural and Environmental~~
49 Resources, the Chairs of the Senate Appropriations ~~Subcommittees~~ Committee on General
50 ~~Government,~~ Natural and Economic Resources, and the Fiscal Research Division by September
51 30 of each year a report on the Fund that includes the source and amounts of all funds credited

1 to the Fund and the purpose and amount of all expenditures from the Fund during the prior
2 fiscal year."

3 **SECTION 14.30.(vv)** G.S. 121-21.1(c) reads as rewritten:

4 "(c) The Tryon Palace Commission shall submit to the Joint Legislative Commission on
5 Governmental Operations, the House ~~and~~ of Representatives Appropriations Committee on
6 Agriculture and Natural and Economic Resources, the Senate Appropriations ~~Subcommittees~~
7 Committee on General Government, Natural and Economic Resources, and the Fiscal Research
8 Division by September 30 of each year a report on the Tryon Palace Historic Sites and Gardens
9 Fund that shall include the source and amounts of all funds credited to the Fund and the
10 purpose and amount of all expenditures from the Fund during the prior fiscal year."

11 **SECTION 14.30.(ww)** G.S. 136-44.12 reads as rewritten:

12 "**§ 136-44.12. Maintenance of roads and parking lots in areas administered by the**
13 **Division of Parks and Recreation.**

14 The Department of Transportation shall maintain all roads and parking lots which are not
15 part of the State Highway System, leading into and located within the boundaries of all areas
16 administered by the Division of Parks and Recreation of the Department of ~~Environment and~~
17 Natural and Cultural Resources.

18 All such roads and parking lots shall be planned, designed, and engineered through joint
19 action between the Department of Transportation and the Division of Parks and Recreation of
20 the Department of ~~Environment and~~ Natural and Cultural Resources. This joint action shall
21 encompass all accepted park planning and design principles. Particular concern shall be given
22 to traffic counts and vehicle weight, minimal cutting into or through any natural and scenic
23 areas, width of shoulders, the cutting of natural growth along roadways, and the reduction of
24 any potential use of roads or parking lots for any purpose other than by park users. All State
25 park roads and parking lots shall conform to the standards regarding width and other roadway
26 specifications as agreed upon by the Division of Parks and Recreation of the Department of
27 ~~Environment and~~ Natural and Cultural Resources and the Department of Transportation.

28 The State park road systems may be closed to the public in accordance with approved park
29 practices that control the use of State areas so as to protect these areas from overuse and abuse
30 and provide for functional use of the park areas, or for any other purpose considered in the best
31 interest of the public by the Division of Parks and Recreation of the Department of
32 ~~Environment and~~ Natural and Cultural Resources.

33 Nothing herein shall be construed to include the transfer to the Department of
34 Transportation the powers now vested in the Division of Parks and Recreation of the
35 Department of ~~Environment and~~ Natural and Cultural Resources relating to the patrol and
36 safeguarding of State park roads or State park parking lots."

37 **SECTION 14.30.(xx)** G.S. 143-116.8 reads as rewritten:

38 "**§ 143-116.8. Motor vehicle laws applicable to State parks and forests road system.**

39 (a) Except as otherwise provided in this section, all the provisions of Chapter 20 of the
40 General Statutes relating to the use of highways and public vehicular areas of the State and the
41 operation of vehicles thereon are made applicable to the State parks and forests road system.
42 For the purposes of this section, the term "State parks and forests road system" shall mean the
43 streets, alleys, roads, public vehicular areas and driveways of the State parks, State forests,
44 State recreation areas, State lakes, and all other lands administered by the Department of
45 ~~Environment and~~ Natural and Cultural Resources or the Department of Agriculture and
46 Consumer Services. This term shall not be construed, however, to include streets that are a part
47 of the State highway system. Any person violating any of the provisions of Chapter 20 of the
48 General Statutes hereby made applicable in the State parks and forests road system shall, upon
49 conviction, be punished in accordance with Chapter 20 of the General Statutes. Nothing herein
50 contained shall be construed as in any way interfering with the ownership and control of the

1 State parks road system by the Department of ~~Environment and~~ Natural and Cultural Resources
2 and the forests road system by the Department of Agriculture and Consumer Services.

3 (b) (1) It shall be unlawful for a person to operate a vehicle in the State parks road
4 system at a speed in excess of twenty-five miles per hour (25 mph). When
5 the Secretary of ~~Environment and~~ Natural and Cultural Resources
6 determines that this speed is greater than reasonable and safe under the
7 conditions found to exist in the State parks road system, the Secretary may
8 establish a lower reasonable and safe speed limit. No speed limit established
9 by the Secretary pursuant to this provision shall be effective until posted in
10 the part of the system where the limit is intended to apply.

11 ...

12 (c) The Secretary of ~~Environment and~~ Natural and Cultural Resources may, by rule,
13 regulate parking and establish parking areas, and provide for the removal of illegally parked
14 motor vehicles on the State parks road system, and the Commissioner of Agriculture may, by
15 rule, regulate and establish parking areas and provide for the removal of illegally parked motor
16 vehicles on the State forests road system. Any rule of the Secretary or the Commissioner shall
17 be consistent with the provisions of G.S. 20-161, 20-161.1, and 20-162. Any removal of
18 illegally parked motor vehicles shall be in compliance with Article 7A of Chapter 20 of the
19 General Statutes.

20 (d) A violation of the rules issued by the Secretary of ~~Environment and~~ Natural and
21 Cultural Resources or the Commissioner of Agriculture under subsection (c) of this section is
22 an infraction pursuant to G.S. 20-162.1, and shall be punished as therein provided. These rules
23 may be enforced by the Commissioner of Motor Vehicles, the Highway Patrol, forest law
24 enforcement officers, or other law enforcement officers of the State, counties, cities or other
25 municipalities having authority under Chapter 20 of the General Statutes to enforce laws or
26 rules on travel or use or operation of vehicles or the use or protection of the highways of the
27 State.

28 ...

29 (f) Notwithstanding any other provision of this section, a person may petition the
30 Department of ~~Environment and~~ Natural and Cultural Resources for a waiver authorizing the
31 person to operate a vehicle in the State parks road system at a speed in excess of 25 miles per
32 hour in connection with a special event. The Secretary may impose any conditions on a waiver
33 that the Secretary determines to be necessary to protect public health, safety, welfare, and the
34 natural resources of the State park. These conditions shall include a requirement that the person
35 receiving the waiver execute an indemnification agreement with the Department and obtain
36 general liability insurance in an amount not to exceed three million dollars (\$3,000,000)
37 covering personal injury and property damage that may result from driving in excess of 25
38 miles per hour in the State parks road system subject to the conditions determined by the
39 Secretary.

40"

41 **SECTION 14.30.(yy)** G.S. 143-129.8A(a) reads as rewritten:

42 "(a) Exemption. – The North Carolina Zoological Park is a State entity whose primary
43 purpose is the attraction of, interaction with, and education of the public regarding issues of
44 global conservation, ecological preservation, and scientific exploration, and that purpose
45 presents unique challenges requiring greater flexibility and faster responsiveness in meeting the
46 needs of and creating the attractions for the Park. Accordingly, the Department of ~~Environment~~
47 ~~and~~ Natural and Cultural Resources may use the procedure set forth in this section, in addition
48 to or instead of any other procedure available under North Carolina law, to contract with a
49 non-State entity on behalf of the Park for the acquisition of goods and services where: (i) the
50 contract directly results in the generation of revenue for the State of North Carolina or (ii) the

1 use of the acquired goods and services by the Park results in increased revenue or decreased
2 expenditures for the State of North Carolina."

3 **SECTION 14.30.(zz)** G.S. 143-135.9(e) reads as rewritten:

4 "(e) North Carolina Zoological Park. – The acquisition of goods and services under a
5 contract entered pursuant to the exemption of G.S. 143-129.8A(a) by the Department of
6 ~~Environment and Natural and Cultural Resources~~ on behalf of the North Carolina Zoological
7 Park may be conducted using the Best Value procurement method. For acquisitions which the
8 procuring agency deems to be highly complex, the use of Government-Vendor partnership is
9 authorized."

10 **SECTION 14.30.(aaa)** G.S. 143-215.31(e) reads as rewritten:

11 "(e) The minimum streamflow in the length of the stream affected by a dam to which
12 subsections (c) and (d) of this section do not apply shall be established as provided in
13 subsection (b) of this section. Subsections (c) and (d) of this section do not apply if the length
14 of the stream affected:

- 15 (1) Receives a discharge of waste from a treatment works for which a permit is
16 required under Part 1 of this Article; or
- 17 (2) Includes any part of a river or stream segment that:
 - 18 a. Is designated as a component of the State Natural and Scenic Rivers
19 System by ~~G.S. 113A-35.1~~ G.S. 143B-135.152 or
20 ~~G.S. 113A-35.2~~ G.S. 143B-135.154.
 - 21 b. Is designated as a component of the national Wild and Scenic Rivers
22 System by 16 U.S.C. § 1273 and 1274."

23 **SECTION 14.30.(bbb)** G.S. 143-215.73F reads as rewritten:

24 **"§ 143-215.73F. Shallow Draft Navigation Channel Dredging and Lake Maintenance**
25 **Fund.**

26 The Shallow Draft Navigation Channel Dredging and Lake Maintenance Fund is
27 established as a special revenue fund. The Fund consists of fees credited to it under G.S. 75A-3,
28 75A-38, and 105-449.126. Revenue in the Fund may only be used to provide the State's share
29 of the costs associated with any dredging project designed to keep shallow draft navigation
30 channels located in State waters or waters of the state located within lakes navigable and safe,
31 or for aquatic weed control projects in waters of the State located within lakes under Article 15
32 of Chapter 113A of the General Statutes. Funding for aquatic weed control projects is limited to
33 five hundred thousand dollars (\$500,000) in each fiscal year. Any project funded by revenue
34 from the Fund must be cost-shared with non-State dollars on a one-to-one basis, provided that
35 the cost-share for a lake located within a component of the State Parks System shall be
36 provided by the Division of Parks and Recreation of the Department of ~~Environment and~~
37 ~~Natural and Cultural Resources~~. The Division of Parks and Recreation may use funds allocated
38 to the State Parks System for capital projects under ~~G.S. 113-44.15~~ G.S. 143B-135.56 for the
39 cost-share. For purposes of this section, "shallow draft navigation channel" means (i) a
40 waterway connection with a maximum depth of 16 feet between the Atlantic Ocean and a bay
41 or the Atlantic Intracoastal Waterway, (ii) a river entrance to the Atlantic Ocean through which
42 tidal and other currents flow, or (iii) other interior coastal waterways. "Shallow draft navigation
43 channel" includes the Atlantic Intracoastal Waterway and its side channels, Beaufort Harbor,
44 Bogue Inlet, Carolina Beach Inlet, the channel from Back Sound to Lookout Back, channels
45 connected to federal navigation channels, Lockwoods Folly River, Manteo/Shallowbag Bay,
46 including Oregon Inlet, Masonboro Inlet, New River, New Topsail Inlet, Rodanthe, Rollinson,
47 Shallotte River, Silver Lake Harbor, and the waterway connecting Pamlico Sound and Beaufort
48 Harbor."

49 **SECTION 14.30.(ccc)** G.S. 147-12(b) reads as rewritten:

50 "(b) The Department of Transportation, the Division of Adult Correction of the
51 Department of Public Safety, the State Highway Patrol, the Wildlife Resources Commission,

1 the Division of Parks and Recreation in the Department of ~~Environment and~~ Natural and
2 Natural Resources, and the Division of Marine Fisheries in the Department of ~~Environment and~~
3 ~~Natural Resources~~ Environmental Quality shall deliver to the Governor by February 1 of each
4 year detailed information on the agency's litter enforcement, litter prevention, and litter removal
5 efforts. The Administrative Office of the Courts shall deliver to the Governor, by February 1 of
6 each year, detailed information on the enforcement of the littering laws of the State, including
7 the number of charges and convictions under the littering laws of the State. The Governor shall
8 gather the information submitted by the respective agencies and deliver a consolidated annual
9 report, on or before March 1 of each year, to the Environmental Review Commission, the Joint
10 Legislative Transportation Oversight Committee, and the House of Representatives and the
11 Senate ~~Appropriations Subcommittees on Natural and Economic Resources~~ appropriations
12 committees with jurisdiction over natural and economic resources."

13 **SECTION 14.30.(ddd)** The title of Article 2 of Chapter 143B of the General
14 Statutes reads as rewritten:

15 "Article 2.

16 Department of Natural and Cultural Resources."

17 **SECTION 14.30.(eee)** The title of Article 7 of Chapter 143B of the General
18 Statutes is rewritten to read:

19 "Article 7.

20 Department of Environmental Quality."

21 **SECTION 14.30.(fff)** G.S. 143B-50 reads as rewritten:

22 "**§ 143B-50. Duties of the Department.**

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

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

28 (2) To provide and keep a museum or collection of the natural history of the
29 State and to maintain the North Carolina Biological Survey."

30 **SECTION 14.30.(ggg)** G.S. 143B-53 reads as rewritten:

31 "**§ 143B-53. Organization of the Department.**

32 (a) The Department of Cultural Resources shall be organized initially to include the Art
33 Commission, the Art Museum Building Commission, the North Carolina Historical
34 Commission, the Tryon Palace Commission, the U.S.S. North Carolina Battleship Commission,
35 the Sir Walter Raleigh Commission, the Executive Mansion Fine Arts Committee, the
36 American Revolution Bicentennial Committee, the North Carolina Awards Committee, the
37 America's Four Hundredth Anniversary Committee, the North Carolina Arts Council, the
38 Public Librarian Certification Commission, the State Library Commission, the North Carolina
39 Symphony Society, Inc., and the Division of the State Library, the Division of Archives and
40 History, the Division of the Arts, and such other divisions as may be established under the
41 provisions of the Executive Organization Act of 1973.

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

44 (1) The Parks and Recreation Division.

45 (2) The State Parks System, including Mount Mitchell State Park.

46 (3) The North Carolina Aquariums Division.

47 (4) The North Carolina Zoological Park.

48 (5) The Museum of Natural Sciences.

49 (6) North Carolina Parks and Recreation Authority.

50 (7) North Carolina Trails Committee.

51 (8) North Carolina Zoological Park Council.

1 (9) Advisory Commission for North Carolina State Museum of Natural
2 Sciences."

3 **SECTION 14.30.(hhh)** G.S. 143B-53.3(c) reads as rewritten:

4 "(c) Reports. – The Department of Natural and Cultural Resources shall submit a report
5 by September 30 of each year to the Joint Legislative Commission on Governmental
6 Operations, the chairs of the House of Representatives Appropriations Subcommittee
7 Committee on General Government, Agriculture and Natural and Economic Resources, the
8 chairs of the Senate Appropriations Committee on General Government and Information
9 Technology, Natural and Economic Resources, and the Fiscal Research Division. This report
10 shall include the source and amount of all funds credited to the Fund and the purpose and
11 amount of all expenditures from the Fund during the prior fiscal year."

12 **SECTION 14.30.(iii)** G.S. 143B-87.2(c) reads as rewritten:

13 "(c) Reports. – The Department shall submit a report to the Joint Legislative
14 Commission on Governmental Operations, the House of Representatives Appropriations
15 Subcommittee Committee on General Government, Agriculture and Natural and Economic
16 Resources, the Senate Appropriations Committee on General Government and Information
17 Technology, Natural and Economic Resources, and the Fiscal Research Division by September
18 30 of each year that includes the source and amount of all funds credited to the Fund and the
19 purpose and amount of all expenditures from the Fund during the prior fiscal year."

20 **SECTION 14.30.(jjj)** G.S. 143B-131.4 reads as rewritten:

21 "**§ 143B-131.4. Commission reports.**

22 The Commission shall submit a quarterly report to the Chairs of the House of
23 Representatives Appropriations Subcommittee Committee on General Government and
24 Agriculture and Natural and Economic Resources, the Chairs of the Senate Appropriations
25 Committee on General Government and Information Technology Natural and Economic
26 Resources, and to the Fiscal Research Division of the General Assembly. The report shall
27 include:

- 28 (1) A summary of actions taken by the Commission consistent with the powers
29 and duties of the Commission set forth in G.S. 143B-131.2.
- 30 (2) Recommendations for legislation and administrative action to promote and
31 develop the Elizabeth II State Historic Site and Visitor Center.
- 32 (3) An accounting of funds received and expended."

33 **SECTION 14.30.(kkk)** G.S. 143B-279.2(2a) is repealed.

34 **SECTION 14.30.(lll)** Subdivisions (9) and (12) of subsection (a) and subdivisions
35 (17), (19), and (22) of subsection (b) of G.S. 143B-279.3 are repealed.

36 **SECTION 14.30.(mmm)** G.S. 143B-344.49 reads as rewritten:

37 "**§ 143B-344.49. Definitions.**

38 The following definitions apply to this Part:

- 39 (1) Applicant. – A member of the family residing in the dwelling unit, the
40 owner, or designated agent of the owner of a dwelling unit applying for
41 program services.
- 42 (2) Department. – The ~~Environment and Natural Resources~~. Department of
43 Environmental Quality.
- 44 (3) Secretary. – The Secretary of the ~~Department of Environment and Natural~~
45 ~~Resources~~. Environmental Quality.
- 46 (4) Subgrantee. – An entity managing a weatherization project that receives a
47 federal grant of funds awarded pursuant to 10 C.F.R. § 440 (1 January 2006
48 edition) from this State or other entity named in the Notification of Grant
49 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."

SECTION 14.30.(nnn) G.S. 146-29.2(e) reads as rewritten:

"(e) Land in the State Parks System, as defined in ~~G.S. 113-449.9~~, G.S. 143B-135.44, may only be leased or conveyed for the purposes of this section upon the approval of the Secretary of ~~the Department of Environment and Natural~~ and Cultural Resources. Lease or conveyance of land in the State Parks System for the purposes of this section shall comply with the requirements of ~~Articles 2 and 2C of Chapter 113-Parts 31 and 32 of Article 7 of Chapter 143B~~ of the General Statutes. When selecting a location for a communications tower or antenna in the State Parks System, the State shall choose a location that minimizes the visual impact on the surrounding landscape. No land acquired or developed using funds from the Federal Land and Water Conservation Fund shall be leased or conveyed for the purposes of this section."

LIMITED AUTHORITY TO RECLASSIFY AND ELIMINATE CERTAIN POSITIONS

SECTION 14.30.(ooo) Notwithstanding any other provision of law, subject to the approval of the Director of the Budget, the Office of State Budget and Management or the Secretary of the Department of Natural and Cultural Resources may reclassify or eliminate existing administrative positions that are not specifically addressed in this act as needed for the efficient operation of the Department.

BUDGETARY TRANSITION PROVISIONS

SECTION 14.30.(ppp) The Office of State Budget and Management shall ensure that future budget documents show the Department of Natural and Cultural Resources, as renamed and reorganized by this section, in the Natural and Economic Resources section of the budget.

SECTION 14.30.(qqq) The Department of Natural and Cultural Resources shall transfer to the Department of Environmental Quality any funds necessary to cover outstanding liabilities of the attractions, divisions, or entities transferred by this section that come due to the Department of Environmental Quality on or after August 1, 2016.

SECTION 14.30.(rrr) The Department of Environmental Quality shall transfer to the Department of Natural and Cultural Resources any funds remaining after covering outstanding liabilities of the attractions, divisions, or entities transferred by this section.

REPORTING AND EFFECTIVE DATE

SECTION 14.30.(sss) The Office of State Budget and Management, in consultation with the Department of Environment and Natural Resources and the Department of Cultural Resources, shall make the following reports on progress implementing this section to the Environmental Review Commission, the Senate and the House of Representatives appropriations committees with jurisdiction over natural and cultural resources, and the Fiscal Research Division:

(1) An interim report on or before October 1, 2015.

(2) A final report on or before January 15, 2016.

These reports shall include (i) the proposed new organization structure, including proposed movement of positions or funds between fund codes, and (ii) information about any reclassifications of positions or reductions in force pursuant to subsection (ooo) of this section, and may include any recommendations for changes to the statutes revised or recodified by this section.

SECTION 14.30.(ttt) Other than subsection (sss) of this section, this section becomes effective August 1, 2016. Any references in this act to any program, office, section,

1 division, council, or committee transferred under this section shall be construed to be consistent
2 with the transfers under this section.

3
4 **STUDY FURTHER EFFICIENCIES IN ORGANIZATION OF DEPARTMENT OF**
5 **NATURAL AND CULTURAL RESOURCES AND DEPARTMENT OF**
6 **ENVIRONMENTAL QUALITY**

7 **SECTION 14.31.(a)** The Department of Cultural Resources, in consultation with
8 the Department of Environment and Natural Resources and the Wildlife Resources
9 Commission, shall study and report on the potential for efficiency, cost savings, and alignment
10 of core mission and values that would be created from the transfer of the following agencies,
11 divisions, or programs to the reorganized Department of Natural and Cultural Resources
12 created by Section 14.30 of this act:

- 13 (1) Albemarle-Pamlico National Estuary Partnership.
- 14 (2) Coastal Reserves Program.
- 15 (3) Office of Land and Water Stewardship.
- 16 (4) All or a portion of the Office of Environmental Education and Public
17 Affairs.
- 18 (5) Division of Marine Fisheries.
- 19 (6) Wildlife Resources Commission.

20 **SECTION 14.31.(b)** The Department shall report as required by subsection (a) of
21 this section no later than April 1, 2016, to the chairs of the Senate Appropriations Committee
22 on Natural and Economic Resources, the chairs of the House Appropriations Committee on
23 Agriculture and Natural and Economic Resources, and the Fiscal Research Division.

24
25 **NC MUSEUM OF NATURAL SCIENCES AT WHITEVILLE**

26 **SECTION 14.32.(a)** If the governing board of the City of Whiteville resolves by
27 August 1, 2015, to accept ownership of the property used for the North Carolina Museum of
28 Natural Sciences at Whiteville, then no later than November 1, 2015, the State of North
29 Carolina shall convey to the City of Whiteville for consideration of one dollar (\$1.00), all its
30 right, title, and interest in the property used for the North Carolina Museum of Natural Sciences
31 at Whiteville allocated to the Department of Environment and Natural Resources.

32 **SECTION 14.32.(b)** The State of North Carolina shall convey the real property
33 described in subsection (a) of this section without warranty. The State makes no representations
34 or warranties concerning the title to the property, the boundaries of the property, the uses to
35 which the property may be put, zoning, local ordinances, or any physical, environmental,
36 health, and safety conditions relating to the property. All costs associated with the conveyance
37 of the property shall be borne by the City of Whiteville.

38 **SECTION 14.32.(c)** The conveyance of the State's right, title, and interest in the
39 North Carolina Museum of Natural Sciences at Whiteville shall be exempt from the provisions
40 of Article 7 of Chapter 146 of the General Statutes. The conveyance shall comply with the
41 provisions of Article 16 of Chapter 146 of the General Statutes; provided that the provisions of
42 G.S. 146-74 shall not apply. The transaction shall be reported to the Fiscal Research Division
43 within 30 days of the transaction being finalized.

44 **SECTION 14.32.(d)** If the governing board of the City of Whiteville does not
45 resolve to accept ownership of the property used for the North Carolina Museum of Natural
46 Sciences at Whiteville under this section or the conveyance does not occur by November 1,
47 2015, then:

- 48 (1) The Department of Administration shall dispose of the property in
49 accordance with Article 7 of Chapter 146 of the General Statutes, provided
50 that the net proceeds of the disposition shall be deposited to the General
51 Fund.

(2) The Department of Environment and Natural Resources shall close the North Carolina Museum of Natural Sciences at Whiteville no later than November 1, 2015, and shall eliminate all positions for the Museum no later than December 1, 2015. The Department of Environment and Natural Resources may use any funds available to the Department during the 2015-2016 fiscal year for any costs associated with operating and then closing the Museum and for supporting positions for the Museum until the Museum is sold, closed, or November 1, 2015, whichever date occurs earliest.

SECTION 14.32.(e) G.S. 143B-344.23, or any recodification of that statute, is repealed.

SECTION 14.32.(f) Subsection (e) of this section becomes effective November 1, 2015.

TECHNICAL CORRECTION RELATING TO ROANOKE ISLAND COMMISSION LEGAL COUNSEL

SECTION 14.33. G.S. 143B-131.7 is repealed.

PART XV. DEPARTMENT OF COMMERCE

EDPNC STATE BUDGET ACT EXEMPTION

SECTION 15.1. G.S. 143B-431.01(b) reads as rewritten:

"(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. ~~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."

COMMERCE STUDY TIME SPENT ADMINISTERING PROGRAMS SUPPORTED BY FEDERAL FUNDS

SECTION 15.3.(a) The Department of Commerce shall study the amount of time all persons in General Fund-supported positions spend performing duties related to the operation and administration of programs that receive federal funds, including the Division of Employment Security and the Division of Workforce Solutions, to determine whether some or all of the costs related to the performance of these duties should be supported by federal

1 indirect cost receipts and, therefore, should be paid for with federal funds instead of General
2 Fund appropriations.

3 **SECTION 15.3.(b)** No later than March 1, 2016, the Department of Commerce
4 shall report the findings of the study required under subsection (a) of this section to the chairs
5 of the House of Representatives Appropriations Committee on Agriculture and Natural and
6 Economic Resources, the Senate Appropriations Committee on Natural and Economic
7 Resources, and the Fiscal Research Division.

8
9 **DEPARTMENT OF COMMERCE/CONFORMING STATUTORY CHANGES**

10 **SECTION 15.4.(a)** G.S. 20-81.12 reads as rewritten:

11 **"§ 20-81.12. Collegiate insignia plates and certain other special plates.**

12 ...
13 (b124) Travel and Tourism. – The Division must receive 300 or more applications for the
14 "Travel and Tourism" plate before the plate may be developed. The Division shall transfer
15 quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the
16 sale of "Travel and Tourism" plates to the ~~Division of Tourism, Film, and Sports~~
17 ~~Development~~Department of Commerce to be used for programs in support of travel and
18 tourism in North Carolina.

19"

20 **SECTION 15.4.(b)** G.S. 143B-434.2 reads as rewritten:

21 **"§ 143B-434.2. Travel and Tourism Policy Act.**

22 ...
23 (d) The Department of Commerce, and the ~~Division of Tourism, Film, and Sports~~
24 ~~Development~~ within that Department, nonprofit corporation with whom the Department
25 contracts pursuant to G.S. 143B-431.01(b) to promote and market tourism, shall implement the
26 policies set forth in this section. The ~~Division of Tourism, Film, and Sports~~
27 ~~Development~~nonprofit corporation shall make an annual report to the General Assembly
28 regarding the status of the travel and tourism industry in North Carolina; the report shall be
29 submitted to the General Assembly by October 15 of each year beginning ~~October 15,~~
30 ~~2011~~October 15, 2015. The duties and responsibilities of the ~~Department of Commerce~~
31 ~~through the Division of Tourism, Film, and Sports Development~~ nonprofit corporation shall be
32 to:

- 33 (1) Organize and coordinate programs designed to promote tourism within the
34 State and to the State from other states and foreign countries.
- 35 (2) Measure and forecast tourist volume, receipts, and impact, both social and
36 economic.
- 37 (3) Develop a comprehensive plan to promote tourism to the State.
- 38 (4) Encourage the development of the State's tourism infrastructure, facilities,
39 services, and attractions.
- 40 (5) Cooperate with neighboring states and the federal government to promote
41 tourism to the State from other countries.
- 42 (6) Develop opportunities for professional education and training in the tourism
43 industry.
- 44 (7) Provide advice and technical assistance to local public and private tourism
45 organizations in promoting tourism to the State.
- 46 (8) Encourage cooperation between State agencies and private individuals and
47 organizations to advance the State's tourist interests and seek the views of
48 these agencies and the private sector in the development of State tourism
49 programs and policies.
- 50 (9) Give leadership to all concerned with tourism in the State.

- 1 (10) Perform other functions necessary to the orderly growth and development of
- 2 tourism.
- 3 (11) Develop informational materials for visitors which, among other things,
- 4 shall:
- 5 a. Describe the State's travel and tourism resources and the State's
- 6 history, economy, political institutions, cultural resources, outdoor
- 7 recreational facilities, and principal festivals.
- 8 b. Urge visitors to protect endangered species, natural resources,
- 9 archaeological artifacts, and cultural treasures.
- 10 c. Instill the ethic of stewardship of the State's natural resources.
- 11 (12) Foster an understanding among State residents and civil servants of the
- 12 economic importance of hospitality and tourism to the State.
- 13 (13) Work with local businesses, including banks and hotels, with educational
- 14 institutions, and with the United States Travel and Tourism Administration,
- 15 to provide special services for international visitors, such as currency
- 16 exchange facilities.
- 17 (14) Encourage the reduction of architectural and other barriers which impede
- 18 travel by physically handicapped persons."

19 **SECTION 15.4.(c)** G.S. 143B-472.35 reads as rewritten:

20 **"§ 143B-472.35. Establishment of fund; use of funds; application for grants; disbursal;**

21 **repayment; inspections; rules; reports.**

22 ...

23 (a2) Definitions. – For purposes of this section, the following definitions shall apply:

24 ...

25 (9) Main Street Center. – The agency within the North Carolina Department of

26 ~~Commerce, Office of Urban Development, Commerce~~ which receives

27 applications and makes decisions with respect to Main Street Solutions Fund

28 grant applications from eligible local governments.

29"

30 **SECTION 15.4.(d)** The Department of Commerce shall, in accordance with

31 Article 2A of Chapter 150B of the General Statutes, amend its rules to reflect the division name

32 changes provided for in this section.

33 **SECTION 15.4.(e)** The Revisor of Statutes may conform names and titles changed

34 by this section, and may correct statutory references as required by this section, throughout the

35 General Statutes. In making the changes authorized by this section, the Revisor may also adjust

36 subject and verb agreement and the placement of conjunctions.

37

38 **NER BLOCK GRANTS/2016 AND 2017 PROGRAM YEARS**

39 **SECTION 15.5.(a)** Appropriations from federal block grant funds are made for the

40 fiscal years ending June 30, 2016, and June 30, 2017, according to the following schedule:

41 **COMMUNITY DEVELOPMENT BLOCK GRANT**

| | | |
|----|--------------------------|--------------|
| 42 | | |
| 43 | 01. State Administration | \$ 1,037,500 |
| 44 | | |
| 45 | 02. Economic Development | 15,737,500 |
| 46 | | |
| 47 | 03. Infrastructure | 26,725,000 |
| 48 | | |

49 **TOTAL COMMUNITY DEVELOPMENT**

| | | |
|----|--|----------------------|
| 50 | BLOCK GRANT – 2016 Program Year | \$ 43,500,000 |
| 51 | 2017 Program Year | \$ 43,500,000 |

1 **SECTION 15.5.(b)** Decreases in Federal Fund Availability. – If federal funds are
2 reduced below the amounts specified in this section after the effective date of this act, then
3 every program in each of these federal block grants shall be reduced by the same percentage as
4 the reduction in federal funds.

5 **SECTION 15.5.(c)** Increases in Federal Fund Availability. – Any block grant
6 funds appropriated by the Congress of the United States in addition to the funds specified in
7 this section shall be expended as follows: each program category under the Community
8 Development Block Grant shall be increased by the same percentage as the increase in federal
9 funds.

10 **SECTION 15.5.(d)** Limitations on Community Development Block Grant Funds. –
11 Of the funds appropriated in this section for the Community Development Block Grant, the
12 following shall be allocated in each category for each program year: up to one million
13 thirty-seven thousand five hundred dollars (\$1,037,500) may be used for State Administration;
14 up to fifteen million seven hundred thirty-seven thousand five hundred dollars (\$15,737,500)
15 may be used for Economic Development; and up to twenty-six million seven hundred
16 twenty-five thousand dollars (\$26,725,000) may be used for Infrastructure. If federal block
17 grant funds are reduced or increased by the Congress of the United States after the effective
18 date of this act, then these reductions or increases shall be allocated in accordance with
19 subsection (b) or (c) of this section, as applicable.

20 **SECTION 15.5.(e)** The Department of Commerce shall consult with the Joint
21 Legislative Commission on Governmental Operations prior to reallocating Community
22 Development Block Grant Funds. Notwithstanding the provisions of this subsection, whenever
23 the Director of the Budget finds that:

- 24 (1) A reallocation is required because of an emergency that poses an imminent
25 threat to public health or public safety, the Director of the Budget may
26 authorize the reallocation without consulting the Commission. The
27 Department of Commerce shall report to the Commission on the reallocation
28 no later than 30 days after it was authorized and shall identify in the report
29 the emergency, the type of action taken, and how it was related to the
30 emergency.
- 31 (2) The State will lose federal block grant funds or receive less federal block
32 grant funds in the next fiscal year unless a reallocation is made, the
33 Department of Commerce shall provide a written report to the Commission
34 on the proposed reallocation and shall identify the reason that failure to take
35 action will result in the loss of federal funds. If the Commission does not
36 hear the issue within 30 days of receipt of the report, the Department may
37 take the action without consulting the Commission.

38 **SECTION 15.5.(f)** By September 1, 2015, and September 1, 2016, the Department
39 of Commerce shall report to the Joint Legislative Commission on Governmental Operations
40 and the Fiscal Research Division on the use of Community Development Block Grant Funds
41 appropriated in the prior fiscal year. The report shall include the following:

- 42 (1) A discussion of each of the categories of funding and how the categories
43 were selected, including information on how a determination was made that
44 there was a statewide need in each of the categories.
- 45 (2) Information on the number of applications that were received in each
46 category and the total dollar amount requested in each category.
- 47 (3) A list of grantees, including the grantee's name, county, category under
48 which the grant was funded, the amount awarded, and a narrative description
49 of the project.

50 **SECTION 15.5.(g)** For purposes of this section, eligible activities under the
51 category of Infrastructure in subsection (a) of this section shall be defined as provided in the

1 HUD State Administered Community Development Block Grant definition of the term
2 "infrastructure". Notwithstanding the provisions of subsection (e) of this section, funds
3 allocated to the Infrastructure category in subsection (a) of this section shall not be reallocated
4 to any other category.
5

6 **USE OF DEOBLIGATED COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS**
7 **AND SURPLUS FEDERAL ADMINISTRATIVE FUNDS**

8 **SECTION 15.6.(a)** Throughout each year, deobligated funds arise in the various
9 funding categories and program years of the Community Development Block Grant (CDBG)
10 program as a result of (i) projects coming in under budget, (ii) projects being cancelled, or (iii)
11 projects being required to repay funds. Surplus federal administrative funds in the CDBG
12 program may vary from year-to-year based upon the amount of State-appropriated funds
13 allocated and the amount of eligible in-kind funds identified.

14 **SECTION 15.6.(b)** To allow the Department of Commerce and the Department of
15 Environment and Natural Resources to quickly deploy deobligated CDBG funds and surplus
16 federal administrative funds as they are identified throughout the program year, the following
17 shall apply to the use of deobligated CDBG funds and surplus federal administrative funds:

18 (1) The Department of Commerce may use the sum of five million nine hundred
19 eight thousand four hundred ninety-seven dollars (\$5,908,497) in
20 deobligated CDBG funds as follows:

21 a. Four million nine hundred eight thousand four hundred ninety-seven
22 dollars (\$4,908,497) for:

23 1. Providing public services and public facilities. The category
24 of public services includes providing substance abuse
25 services and employment services, including job training for
26 veterans in high unemployment areas in the State.

27 2. If House Bill 108, 2015 Regular Session, becomes law,
28 providing up to one million dollars (\$1,000,000) in the
29 2016-2017 fiscal year to be used to fund a loan fund for site,
30 infrastructure, and building development. Program income
31 generated from awards made from the loan fund shall be
32 captured in the existing CDBG revolving loan fund.

33 b. Five hundred thousand dollars (\$500,000) for existing CDBG
34 programs that encounter cost overruns.

35 c. Five hundred thousand dollars (\$500,000) for providing training and
36 guidance to local governments relative to the CDBG program, its
37 management, and administration requirements.

38 (2) All deobligated CDBG funds remaining after the provisions of subdivision
39 (1) of this subsection have been met and all surplus federal administrative
40 funds shall be divided equally between the Department of Commerce and
41 the Department of Environment and Natural Resources and shall be used as
42 provided in subdivisions (3) and (4) of this subsection.

43 (3) The Department of Commerce may use the funds provided for in subdivision
44 (2) of this subsection for the following:

45 a. To issue grants in the CDBG economic development program
46 category.

47 b. For providing training and guidance to local governments relative to
48 the CDBG program, its management, and administrative
49 requirements.

- (4) The Department of Environment and Natural Resources may use the funds provided for in subdivision (2) of this subsection to issue grants in the CDBG infrastructure program category.

RURAL INFRASTRUCTURE AUTHORITY/ECONOMIC DEVELOPMENT GRANTS & LOANS

SECTION 15.6A. G.S. 143B-472.127 reads as rewritten:

"§ 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 (i) local government units of the counties that have one of the 80 highest rankings under G.S. 143B-437.08 after the adjustment of that section, section and (ii) local government units located in a rural census tract in a development tier three area. 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. The development tier designation of a county shall be determined as provided in 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.~~

...."

FUNDS TO CERTAIN COUNTIES FOR APPALACHIAN REGIONAL COMMISSION MATCH

SECTION 15.8.(a) Of the funds appropriated in this act to the Department of Commerce for the Rural Grant Program Expansion for the 2015-2016 fiscal year, the sum of two hundred fifty-three thousand nine hundred fifty-six dollars (\$253,956) in nonrecurring funds shall be allocated to the following counties to be used for the Appalachian Regional Commission match requirement:

| | | |
|-----|------------|----------|
| (1) | Cherokee | \$63,606 |
| (2) | Graham | 103,450 |
| (3) | Rutherford | 43,450 |
| (4) | Swain | 43,450. |

SECTION 15.8.(b) The match funds provided for in subsection (a) of this section shall be used for infrastructure projects only.

1 MAIN STREET SOLUTIONS FUND ALLOCATION

2 **SECTION 15.8A.** Of the funds appropriated by this act to the Department of
3 Commerce for the Main Street Solutions Fund for the 2015-2016 fiscal year, the Department
4 shall allocate one million dollars (\$1,000,000) in nonrecurring funds for the 2015-2016 fiscal
5 year for a downtown revitalization project that will stimulate economic growth along the main
6 street corridor of a municipality meeting all of the following:

- 7 (1) The municipality had a population, as of July 2013, of not fewer than
8 105,000 and not in excess of 110,000.
9 (2) The municipality is located, in whole or in part, in a county that moved from
10 a development tier three area status to development tier two area status in the
11 annual ranking performed by the Department of Commerce pursuant to
12 G.S. 143B-437.08 for the 2015 calendar year.
13 (3) The municipality provides no less than one dollar forty-three cents (\$1.43)
14 for every one dollar (\$1.00) allocated from the Fund.
15

16 WANCHESE MARINE INDUSTRIAL PARK

17 **SECTION 15.8B.(a)** The Department of Commerce shall transfer the cash balance
18 remaining in fund code 14600-1561 on June 30, 2015, to an enterprise fund created for the
19 North Carolina Marine Industrial Park. Thereafter, the enterprise fund shall be used for the
20 operations, maintenance, repair, and capital improvements of the Wanchese Marine Industrial
21 Park.

22 **SECTION 15.8B.(b)** This section becomes effective June 30, 2015.
23

24 MODIFY ECONOMIC DEVELOPMENT GRANT REPORT

25 **SECTION 15.10.(a)** G.S. 143B-437.07 reads as rewritten:

26 "§ 143B-437.07. Economic development grant reporting.

27 (a) Report. – The Department of Commerce must publish on or before October 1 of
28 each year the information required by this subsection, itemized by business entity, for each
29 business or joint private venture to which the State has, in whole or in part, granted one or more
30 economic development incentives during the ~~previous fiscal year~~ relevant time period. The
31 relevant time period ends June 30 preceding the publication date of this subsection and begins
32 (i) for incentives not awarded under Part 2G of this Article with the 2007 calendar year and (ii)
33 for incentives awarded under Part 2G of this Article with the 2002 calendar year. The
34 information in the report must include all of the following:

- 35 ...
36 (3) The name, mailing address, telephone number, and Web site of the business
37 recipient, or recipients if a joint venture, and the physical location of the site
38 receiving the incentive. If the physical location of the site is undecided, then
39 the name of the county in which the site will be located. The information
40 regarding the physical location must indicate whether the physical location is
41 a new or expanded facility.
42 (3a) A determination of whether the award is to a business that is new to the State
43 or an expansion of an existing business within the State.

44"

45 **SECTION 15.10.(b)** This section is effective for reports published for fiscal years
46 beginning on or after July 1, 2015.
47

48 WORKFORCE DEVELOPMENT BOARDS/CHANGES TO CONFORM WITH
49 FEDERAL LAW

50 **SECTION 15.11.(a)** G.S. 143B-438.10 reads as rewritten:

51 "§ 143B-438.10. ~~Commission on Workforce Development~~. NCWorks Commission.

1 (a) Creation and Duties. – There is created within the Department of Commerce the
 2 ~~North Carolina Commission on Workforce Development.~~ NCWorks Commission (hereinafter
 3 "Commission"). The Commission shall have the following powers and duties:

4 ...

5 (9) To serve as the State's Workforce Investment Board for purposes of the
 6 federal ~~Workforce Investment Act of 1998.~~ Workforce Innovation and
 7 Opportunity Act.

8 ...

9 (13) To develop performance accountability measures for local workforce
 10 development boards consistent with the requirements of section 116 of the
 11 Workforce Innovation and Opportunity Act and to recommend to the
 12 Governor sanctions against local workforce development boards that fail to
 13 meet the performance accountability measures.

14 (14) To develop fiscal control and fund accounting procedures for local
 15 workforce development boards consistent with the requirements of section
 16 184 of the Workforce Innovation and Opportunity Act and to recommend to
 17 the Governor sanctions against local workforce development boards that fail
 18 to meet the fiscal control and fund accounting procedures.

19 (b) ~~Membership; Terms.~~ Effective January 1, 2013, the Membership. – The
 20 ~~Commission on Workforce Development~~ shall consist of ~~25~~ 33 members appointed as follows:

21 (1) By virtue of their offices, the following ~~department and agency heads or~~
 22 ~~their respective designees~~ persons, or their designees, shall serve on the
 23 Commission: ~~the~~

24 a. The Governor.

25 b. The Secretary of the Department of Administration, ~~the~~
 26 Administration.

27 c. The Secretary of the Department of Commerce.

28 d. The Secretary of the Department of Health and Human Services, ~~the~~
 29 Services.

30 e. The Superintendent of Public Instruction, ~~the~~ Instruction.

31 f. The President of the Community Colleges System Office, ~~the~~
 32 Commissioner of the Department of Labor, and the Secretary of the
 33 Department of Commerce Office.

34 g. The President of The University of North Carolina system.

35 (2) ~~The~~ Pursuant to the provisions of section 101 of the Workforce Innovation
 36 and Opportunity Act, the Governor shall appoint ~~49~~ 26 members as follows:

37 a. ~~Two~~ Seventeen members representing ~~public, postsecondary, and~~
 38 ~~vocational education;~~ business and industry in the State.

39 b. ~~One~~ Seven members representing ~~community-based~~
 40 ~~organizations;~~ the workforce in the State.

41 c. ~~Three~~ members representing labor. One member representing local
 42 elected city officials in the State.

43 d. ~~Thirteen~~ members representing business and industry. One member
 44 representing local elected county officials in the State.

45 (3) ~~The terms of the members appointed by the Governor shall be for four years.~~

46 (b1) Terms. – The persons listed in subdivision (1) of subsection (b) of this section shall
 47 serve on the Commission while they hold their respective offices. The terms of the members
 48 appointed by the Governor pursuant to subdivision (2) of subsection (b) of this section shall be
 49 for four years, except as provided in this subsection. The terms shall be staggered and shall
 50 begin on August 1 and expire on July 31. Upon the expiration of the term of each member in
 51 subdivision (2) of subsection (b) of this section, the Governor shall fill the vacancy by

1 reappointing the member or appointing another person of like qualification to serve a four-year
 2 term. If a vacancy occurs for any reason other than the expiration of the member's term, the
 3 Governor shall appoint a person of like qualification to serve for the remainder of the unexpired
 4 term.

5 In order to provide for staggered terms, six persons appointed to the positions designated in
 6 sub-subdivision a. of subdivision (2) of subsection (b) of this section and three persons
 7 appointed to the positions designated in sub-subdivision b. of subdivision (2) of subsection (b)
 8 of this section shall be appointed for initial terms ending on July 31, 2019. Five persons
 9 appointed to the positions designated in sub-subdivision a. of subdivision (2) of subsection (b)
 10 of this section, two persons appointed to the positions designated in sub-subdivision b. of
 11 subdivision (2) of subsection (b) of this section, and one person appointed to the position
 12 designated in sub-subdivision c. of subdivision (2) of subsection (b) of this section shall be
 13 appointed for initial terms ending on July 31, 2017. Six persons appointed to the positions
 14 designated in sub-subdivision a. of subdivision (2) of subsection (b) of this section, two persons
 15 appointed to the positions designated in sub-subdivision b. of subdivision (2) of subsection (b)
 16 of this section, and one person appointed to the position designated in sub-subdivision d. of
 17 subdivision (2) of subsection (b) of this section shall be appointed for initial terms ending on
 18 July 31, 2016.

19 "...."

20 **SECTION 15.11.(b)** The terms of office of the Commissioner of the Department
 21 of Labor and the 19 public members appointed by the Governor and currently serving on the
 22 North Carolina Commission on Workforce Development shall expire on July 31, 2015.

23 **SECTION 15.11.(c)** G.S. 143B-438.11 reads as rewritten:

24 "**§ 143B-438.11. Local Workforce Development Boards.**

25 (a) Duties. – Local Workforce Development Boards shall have the following powers
 26 and duties:

27 ...

28 (7) To serve as the Workforce Investment Board for the designated substate area
 29 for the purpose of the federal Workforce ~~Investment Act of 1998.~~Innovation
 30 and Opportunity Act.

31 (7a) To designate through a competitive selection process, by no later than July 1,
 32 2014, the providers of adult and dislocated worker services authorized in the
 33 Workforce ~~Investment Act of 1998.~~Innovation and Opportunity Act.

34 (8) To provide the appropriate guidance and information to Workforce
 35 ~~Investment–Innovation and Opportunity Act~~ consumers to ensure that they
 36 are prepared and positioned to make informed choices in selecting a training
 37 provider. Each local Workforce Development Board shall ensure that
 38 consumer choice is properly maintained in the one-stop centers and that
 39 consumers are provided the full array of public and private training provider
 40 information.

41 ...

42 (10) To comply with the performance accountability measures established by the
 43 NCWorks Commission pursuant to section 116 of the Workforce Innovation
 44 and Opportunity Act.

45 (11) To comply with the fiscal control and fund accounting procedures
 46 established by the NCWorks Commission pursuant to Section 184 of the
 47 Workforce Innovation and Opportunity Act.

48 (b) Members. – Members of local Workforce Development Boards shall be appointed
 49 by local elected officials in accordance with criteria established by the Governor and with
 50 provisions of the federal Workforce ~~Investment–Innovation and Opportunity Act.~~ The local
 51 Workforce Development Boards shall have a majority of business members and shall also

1 include representation of workforce and education providers, labor organizations,
2 community-based organizations, and economic development boards as determined by local
3 elected officials. The Chairs of the local Workforce Development Boards shall be selected from
4 among the business members.

5 (c) Assistance. – ~~The North Carolina Commission on Workforce Development~~
6 NCWorks Commission and the Department of Commerce shall provide programmatic,
7 technical, and other assistance to any local Workforce Development Board that realigns its
8 service area with the boundaries of a local regional council of governments established
9 pursuant to G.S. 160A-470."

10 **SECTION 15.11.(d)** G.S. 96-32 reads as rewritten:

11 **"§ 96-32. Common follow-up information management system created.**

12 ...

13 (d) The LEAD shall do the following:

14 (1) Collaborate with the ~~Commission on Workforce Development~~ NCWorks
15 Commission to develop common performance measures across workforce
16 programs in the Department of Commerce, the Department of Health and
17 Human Services, the Community Colleges System Office, the Department of
18 Administration, and the Department of Public Instruction that can be tracked
19 through the CFS in order to assess and report on workforce development
20 program performance.

21"

22 **SECTION 15.11.(e)** G.S. 143B-157 reads as rewritten:

23 **"§ 143B-157. Commission for the Blind – creation, powers and duties.**

24 There is recreated the Commission for the Blind of the Department of Health and Human
25 Services with the power and duty to adopt rules governing the conduct of the State's
26 rehabilitative programs for the blind that are necessary to carry out the provisions and purposes
27 of this Article.

28 ...

29 (3e) The Commission shall coordinate with other councils within the State,
30 including the statewide Independent Living Council established under
31 section 705 of the federal Rehabilitation Act, 29 U.S.C. § 720, et seq., the
32 advisory panel established under section 612(a)(21) of the Individuals with
33 Disabilities Education Act, 20 U.S.C. § 1413(A)(12), the Council on
34 Developmental Disabilities described in section 124 of the Developmental
35 Disabilities Assistance and Bill of Rights Act, 42 U.S.C. § 6024, the State
36 Mental Health Planning Council established pursuant to section 1916(e) of
37 the Public Health Service Act, 42 U.S.C. § 300x-4(e), and the ~~Commission~~
38 on Workforce Development; NCWorks Commission;

39"

40 **SECTION 15.11.(f)** G.S. 143B-158 reads as rewritten:

41 **"§ 143B-158. Commission for the Blind.**

42 (a) The Commission for the Blind of the Department of Health and Human Services
43 shall consist of 19 members as follows:

44 ...

45 (12) One representative of the ~~Commission on Workforce~~
46 Development; NCWorks Commission.

47"

48 **SECTION 15.11.(g)** G.S. 143B-438.12 reads as rewritten:

49 **"§ 143B-438.12. Federal Program Administration.**

50 (a) Federal Workforce ~~Investment~~ Innovation and Opportunity Act. – In accordance
51 with the federal Workforce ~~Investment~~ Innovation and Opportunity Act, the ~~Commission on~~

1 ~~Workforce Development NCWorks Commission shall develop a Five-Year Strategic Plan~~
2 ~~Four-Year Unified State Plan~~ to be submitted to the U.S. Secretary of Labor. The ~~Strategic Plan~~
3 ~~Unified State Plan~~ shall describe the ~~workforce development activities to be undertaken in the~~
4 ~~State to implement the federal Workforce Investment Act and how special populations shall be~~
5 ~~served.~~ State's strategic vision and goals for preparing an educated and skilled workforce as
6 ~~required in section 102 of the federal Workforce Innovation and Opportunity Act.~~

7 (b) Other Workforce Grant Applications. – The ~~Commission on Workforce~~
8 ~~Development NCWorks Commission~~ may submit grant applications for workforce
9 development initiatives and may manage the initiatives and demonstration projects."

10 **SECTION 15.11.(h)** G.S. 143B-438.13 reads as rewritten:

11 **"§ 143B-438.13. Employment and Training Grant Program.**

12 (a) Employment and Training Grant Program. – There is established in the Department
13 of Commerce, Division of ~~Employment and Training, Workforce Solutions,~~ an Employment
14 and Training Grant Program. Grant funds shall be allocated to local Workforce Development
15 Boards for the purposes of enabling recipient agencies to implement local employment and
16 training programs in accordance with existing resources, local needs, local goals, and selected
17 training occupations. The State program of workforce performance standards shall be used to
18 measure grant program outcomes.

19 (b) Use of Grant Funds. – Local agencies may use funds received under this section for
20 the purpose of providing services, such as training, education, placement, and supportive
21 services. Local agencies may use grant funds to provide services only to individuals who are (i)
22 18 years of age or older and meet the federal Workforce ~~Investment Innovation and~~
23 ~~Opportunity Act,~~ title I adult eligibility definitions, or meet the federal Workforce ~~Investment~~
24 ~~Innovation and Opportunity Act,~~ title I dislocated worker eligibility definitions, or (ii)
25 incumbent workers with annual family incomes at or below two hundred percent (200%) of
26 poverty guidelines established by the federal Department of Health and Human Services.

27 (c) Allocation of Grants. – The Department of Commerce may reserve and allocate up
28 to ten percent (10%) of the funds available to the Employment and Training Grant Program for
29 State and local administrative costs to implement the Program. The Division of ~~Employment~~
30 ~~and Training Workforce Solutions~~ shall allocate employment and training grant funds to local
31 Workforce Development Boards serving federal Workforce ~~Investment Innovation and~~
32 ~~Opportunity Act~~ local workforce ~~investment development~~ areas based on the following
33 formula:

34 (1) One-half of the funds shall be allocated on the basis of the relative share of
35 the local workforce ~~investment development~~ area's share of federal
36 Workforce ~~Investment Innovation and Opportunity Act,~~ title I adult funds as
37 compared to the total of all local areas adult shares under the federal
38 Workforce ~~Investment Innovation and Opportunity Act,~~ title I.

39 (2) One-half of the funds shall be allocated on the basis of the relative share of
40 the local workforce ~~investment development~~ area's share of federal
41 Workforce ~~Investment Innovation and Opportunity Act,~~ title I dislocated
42 worker funds as compared to the total of all local areas dislocated worker
43 shares under the federal Workforce ~~Investment Innovation and Opportunity~~
44 ~~Act,~~ title I.

45 (3) Local workforce ~~investment development~~ area adult and dislocated shares
46 shall be calculated using the current year's allocations to local areas under
47 the federal Workforce ~~Investment Innovation and Opportunity Act,~~ title I.

48 (d) Repealed by Session Laws 2009-451, s. 14.5(d), effective July 1, 2009.

49 (e) Nonreverting Funds. – Funds appropriated to the Department of Commerce for the
50 Employment and Training Grant Program that are not expended at the end of the fiscal year

1 shall not revert to the General Fund, but shall remain available to the Department for the
2 purposes established in this section."

3 **SECTION 15.11.(i)** G.S. 143B-438.14 reads as rewritten:

4 **"§ 143B-438.14. "No Adult Left Behind" Initiative.**

5 (a) ~~The Commission on Workforce Development,~~ NCWorks Commission, acting as the
6 lead agency, with the cooperation of other participating agencies, including the Department of
7 Labor, the Department of Commerce, the Employment Security Commission, the North
8 Carolina Community College System, The University of North Carolina, and the North
9 Carolina Independent Colleges and Universities shall initiate the "No Adult Left Behind"
10 Initiative (Initiative) geared toward achievement of major statewide workforce development
11 goals. The Initiative may also include community-based nonprofit organizations that provide
12 services or assistance in the areas of worker training, workforce development, and transitioning
13 North Carolinians between industries in the current global labor market.

14 (b) The first goal of the Initiative is to increase dramatically to forty percent (40%) the
15 percentage of North Carolinians who earn associate degrees, other two-year educational
16 credentials, and baccalaureate degrees. Specific fields of study may be selected for the most
17 intense efforts. ~~The Commission on Workforce Development~~ NCWorks Commission shall, as
18 the lead agency along with the North Carolina Community College System and The University
19 of North Carolina as key cooperating institutions, do all of the following:

20 ...

21 (c) ~~The Commission on Workforce Development~~ NCWorks Commission and the other
22 lead participating institutions may enter into contracts with other qualified organizations,
23 especially community-based nonprofits, to carry out components of the Initiative set forth in
24 subsection (b) of this section.

25 (d) ~~The Commission on Workforce Development~~ NCWorks Commission shall submit
26 to the Governor and to the General Assembly by May 1, 2012, and annually thereafter, details
27 of its implementation of this section that shall include at least the following:

28"

29 **SECTION 15.11.(j)** The Revisor of Statutes may conform names and titles
30 changed by this section, and may correct statutory references as required by this section,
31 throughout the General Statutes. In making the changes authorized by this section, the Revisor
32 may also adjust subject and verb agreement and the placement of conjunctions.

33
34 **REPEAL STATUTES AUTHORIZING TRADE JOBS FOR SUCCESS/INITIATIVE**
35 **ENDED JUNE 30, 2013**

36 **SECTION 15.12.** Part 3C of Article 10 of Chapter 143B of the General Statutes is
37 repealed.

38
39 **REPEAL APPRENTICESHIP FEE**

40 **SECTION 15.13.** G.S. 94-12 is repealed.

41
42 **INDUSTRIAL COMMISSION ADOPT DRUG FORMULARY**

43 **SECTION 15.13A.(a)** G.S. 97-26 reads as rewritten:

44 **"§ 97-26. Fees allowed for medical treatment; drug formulary; reimbursement of medical**
45 **fees; malpractice of physician.**

46 (a) Medical Compensation Fee Schedule. – The Commission shall ~~adopt by rule~~ adopt,
47 by rule, a schedule of maximum fees for medical compensation and shall periodically review
48 the schedule and make revisions.

49 The fees adopted by the Commission in its schedule shall be adequate to ensure that (i)
50 injured workers are provided the standard of services and care intended by this Chapter, (ii)

1 providers are reimbursed reasonable fees for providing these services, and (iii) medical costs
2 are adequately contained.

3 The Commission may consider any and all reimbursement systems and plans in establishing
4 its fee schedule, including, but not limited to, the State Health Plan for Teachers and State
5 Employees (hereinafter, "State Plan"), Blue Cross and Blue Shield, and any other private or
6 governmental plans. The Commission may also consider any and all reimbursement
7 methodologies, including, but not limited to, the use of current procedural terminology ("CPT")
8 codes, diagnostic-related groupings ("DRGs"), per diem rates, capitated payments, and
9 resource-based relative-value system ("RBRVS") payments. The Commission may consider
10 statewide fee averages, geographical and community variations in provider costs, and any other
11 factors affecting provider costs.

12 (a1) Drug Schedule. – The Commission shall adopt, by rule, a nationally recognized
13 drug formulary that approves certain prescription drugs, prescribed over-the-counter drugs, and
14 professional pharmaceutical services for the treatment of a compensable injury or occupational
15 disease. All medications and pharmaceutical services prescribed and provided in accordance
16 with the Commission's drug formulary rules shall, for purposes of this Article, be presumed to
17 be reasonably required to effect a cure, give relief, or lessen the period of disability resulting
18 from a compensable injury or occupational disease. The Commission shall ensure that the
19 formulary rules remain up-to-date and in accordance with the adopted drug formulary. The
20 drug formulary rules shall allow an injured employee the option to purchase a nonformulary
21 medication rather than a formulary medication. The injured employee shall be responsible for
22 paying the difference between the cost of the nonformulary medication and the cost of the
23 formulary medication, unless an agreement by the parties provides otherwise.

24 (a2) Independent Review. – The Commission shall, by rule, provide for the independent
25 review of claims in which the authorized health care provider or authorized pharmacy has
26 determined that a deviation from the adopted drug formulary is reasonably required to effect a
27 cure, give relief, or lessen the period of disability resulting from a compensable injury or
28 occupational disease. The Commission shall also adopt rules regarding procedures and
29 minimum qualifications for the approval of independent review organizations by the
30 Commission for purposes of this section and for the selection of independent review
31 organizations to conduct reviews of specified cases. Claimants and employers or carriers may
32 appeal the determination of an independent review organization pursuant to G.S. 97-25(f)(2) or
33 G.S. 97-83. The Commission shall establish fees related to processing requests for review by
34 independent review organizations and shall set a schedule of fees that may be charged to the
35 parties by the independent review organization conducting the review.

36 (b) Hospital Fees. – Each hospital subject to the provisions of this section shall be
37 reimbursed the amount provided for in this section unless it has agreed under contract with the
38 insurer, managed care organization, employer (or other payor obligated to reimburse for
39 inpatient hospital services rendered under this Chapter) to accept a different amount or
40 reimbursement methodology.

41 The explanation of the fee schedule change that is published pursuant to
42 G.S. 150B-21.2(c)(2) shall include a summary of the data and calculations on which the fee
43 schedule rate is based.

44 A hospital's itemized charges on the UB-92 claim form for workers' compensation services
45 shall be the same as itemized charges for like services for all other payers.

46 (c) Maximum Reimbursement for Providers Under Subsection (a). – Each health care
47 provider subject to the provisions of subsection (a) of this section shall be reimbursed the
48 amount specified under the fee schedule unless the provider has agreed under contract with the
49 insurer or managed care organization to accept a different amount or reimbursement
50 methodology. In any instance in which neither the fee schedule nor a contractual fee applies,
51 the maximum reimbursement to which a provider under subsection (a) is entitled under this

1 Article is the usual, customary, and reasonable charge for the service or treatment rendered. In
2 no event shall a provider under subsection (a) charge more than its usual fee for the service or
3 treatment rendered.

4 (c1) Drug and Pharmacy Reimbursement Limits. – Nothing contained in subsection (a1)
5 or (a2) of this section shall be construed to permit any act in conflict with the provisions of
6 G.S. 97-26.2 governing reimbursement for prescription drugs, prescribed over-the-counter
7 drugs, and professional pharmaceutical services.

8 (d) Information to Commission. – Each health care provider seeking reimbursement for
9 medical compensation under this Article shall provide the Commission information requested
10 by the Commission for the development of fee schedules and the determination of appropriate
11 reimbursement.

12 (e) ~~When Charges/Bills Submitted. – Health care providers shall submit charges to the~~
13 ~~insurer or managed care organization within 30 days of treatment, within 30 days after the end~~
14 ~~of the month during which multiple treatments were provided, or within such other reasonable~~
15 ~~period of time as allowed by the Commission. If an insurer or managed care organization~~
16 ~~disputes a portion of a health care provider's bill, it shall pay the uncontested portion of the bill~~
17 ~~and shall resolve disputes regarding the balance of the charges in accordance with this Article~~
18 ~~or its contractual arrangement.~~

19 (f) Repeating Diagnostic Tests. – A health care provider shall not authorize a
20 diagnostic test previously conducted by another provider, unless the health care provider has
21 reasonable grounds to believe a change in patient condition may have occurred or the quality of
22 the prior test is doubted. The Commission may adopt rules establishing reasonable
23 requirements for reports and records to be made available to other health care providers to
24 prevent unnecessary duplication of tests and examinations. A health care provider that violates
25 this subsection shall not be reimbursed for the costs associated with administering or analyzing
26 the test.

27 (g) Direct Reimbursement. – ~~The Commission may adopt rules to allow insurers and~~
28 Insurers, managed care organizations to organizations, and employers shall review and
29 reimburse charges/adjudicate bills for medical compensation without submitting the ~~charges~~
30 bills to the Commission for review and approval.

31 (g1) Administrative Simplification. – The applicable administrative standards for code
32 sets, identifiers, formats, and electronic transactions to be used in processing electronic medical
33 bills under this Article shall comply with 45 C.F.R. § 162. The Commission shall adopt rules to
34 require electronic medical billing and payment processes, to standardize the necessary medical
35 documentation for billing adjudication, to provide for effective ~~dates and compliance, dates and~~
36 reasonable sanctions for noncompliance, and for further implementation of this subsection.

37 (h) Malpractice. – ~~The employer shall not be liable in damages for malpractice by a~~
38 physician or surgeon/health care provider furnished by him pursuant to the provisions of this
39 section, but the consequences of any such malpractice shall be deemed part of the injury
40 resulting from the accident, and shall be compensated for as such.

41 (i) Resolution of Dispute. – If an insurer or managed care organization disputes a
42 portion of a health care provider's bill, it shall pay the uncontested portion of the bill and shall
43 resolve disputes regarding the balance of the charges in accordance with this Article or its
44 contractual arrangement. The employee or health care provider may apply to the Commission
45 by motion or for a hearing to resolve any dispute regarding the payment of charges for medical
46 compensation in accordance with this Article. The Commission may adopt rules for purposes of
47 resolving medical fee disputes."

48 **SECTION 15.13A.(b)** The Industrial Commission shall adopt temporary and
49 permanent rules for the implementation of this section. Rules adopted pursuant to this section
50 shall not be subject to G.S. 150B-19.1(e), 150B-19.1(f), and 150B-21.4.

51 **SECTION 15.13A.(c)** This section is effective when this act becomes law.

1
2 **INDUSTRIAL COMMISSION/REIMBURSEMENT FOR PRESCRIPTION DRUGS**
3 **AND PROFESSIONAL PHARMACEUTICAL SERVICES**

4 **SECTION 15.13B.(a)** G.S. 97-26.2 reads as rewritten:

5 "**§ 97-26.2. Reimbursement for prescription ~~drugs—drugs, prescribed over-the-counter~~**
6 **drugs, and professional pharmaceutical services.**

7 (a) The reimbursement amount for prescription ~~drugs—drugs, prescribed~~
8 ~~over-the-counter drugs,~~ and professional pharmaceutical services shall be limited to the lesser
9 of ninety-five percent (95%) of the average wholesale price (AWP) of the product, calculated
10 on a per unit basis, as of the date of ~~dispensing—dispensing~~ or the reimbursement amount
11 provided for in an agreement between the dispensing health care provider and the payor
12 employer or workers' compensation insurance carrier.

13 (b) All of the following shall apply to the reimbursement for prescription drugs and
14 professional pharmaceutical services:

15 (1) A health care provider seeking reimbursement for ~~drugs dispensed by a~~
16 ~~physician—health care provider—dispensed prescription drugs, prescribed~~
17 ~~over-the-counter drugs, and pharmaceutical services~~ shall include the
18 original manufacturer's National Drug Code (NDC) number, as assigned by
19 the United States Food and Drug Administration, on ~~the bills and reports~~
20 ~~required by this section.~~any billing documents or invoices issued.

21 (2) In no event may a ~~physician—health care provider~~ receive reimbursement in
22 excess of ninety-five percent (95%) of the AWP of the drugs dispensed by a
23 ~~physician, health care provider,~~ as determined by reference to the original
24 manufacturer's NDC number.

25 (3) A repackaged NDC number may not be individually used on any billing
26 documents or invoices issued, and will not be considered the original
27 manufacturer's NDC number. A repackaged NDC number may only appear
28 in conjunction with the manufacturer's NDC number. If a health care
29 provider seeking reimbursement for drugs dispensed by a ~~physieian—health~~
30 ~~care provider~~ does not include the original manufacturer's NDC number on
31 ~~the bills and reports required by this section,~~any billing documents or
32 invoices issued, reimbursement shall be limited to one hundred percent
33 (100%) of the AWP of the least expensive clinically equivalent drug,
34 calculated on a per unit basis.

35 (4) No outpatient health care provider, other than a licensed pharmacy, may
36 receive reimbursement for a Schedule II controlled substance, as defined in
37 G.S. 90-90, ~~or~~ a Schedule III controlled substance, as defined in G.S. 90-91,
38 a Schedule IV controlled substance, as defined in G.S. 90-92, or a Schedule
39 V controlled substance, as defined in G.S. 90-93, dispensed in excess of an
40 initial five-day supply, commencing upon the employee's initial treatment
41 following injury. Reimbursement under this subdivision shall be made for
42 the five-day supply at the rates provided in this section.

43 (5) For purposes of this section, the term "clinically equivalent" means a drug
44 has chemical equivalents which, when administered in the same amounts,
45 will provide essentially the same therapeutic effect as measured by the
46 control of a symptom or disease."

47 **SECTION 15.13B.(b)** This section becomes effective September 1, 2015.

48
49 **INDUSTRIAL COMMISSION/USE OF IT FUNDS**

50 **SECTION 15.14.** In each year of the 2015-2017 fiscal biennium, the Industrial
51 Commission, in consultation with the State Chief Information Officer, may use available funds

1 in Budget Code 24611 (Fund 2200) to maintain its Consolidated Case Management System,
2 including, but not limited to, covering the costs of related service contracts and information
3 technology personnel.
4

5 **UTILITIES COMMISSION/PUBLIC STAFF REALIGN CERTIFIED BUDGET WITH**
6 **ANTICIPATED AGENCY REQUIREMENTS**

7 **SECTION 15.15.(a)** No later than November 1, 2015, the Utilities Commission
8 and Public Staff, in conjunction with the Department of Commerce and the Office of State
9 Budget and Management, shall realign the certified budget for the following funds for each
10 year of the 2015-2017 fiscal biennium to reflect the anticipated spending requirements for the
11 Utilities Commission and Public Staff for each year of the 2015-2017 biennium:

| Budget Code | Fund | Description |
|-------------|------|------------------------------|
| 54600 | 5211 | Utilities – Commission Staff |
| 54600 | 5217 | Utilities – Gas Pipelines |
| 54600 | 5218 | PUC Capacity Grant – ARRA |
| 54600 | 5221 | Utilities – Public Staff |
| 64605 | 6431 | Utility and Public Staff. |

12
13
14
15
16
17
18 **SECTION 15.15.(b)** In realigning the certified budget for the funds described in
19 subsection (a) of this section, the Utilities Commission and Public Staff shall prioritize
20 eliminating unnecessary vacant positions and making line-item modifications that reflect
21 anticipated agency requirements. The Utilities Commission and Public Staff shall not expend
22 any funds unless they are appropriated in this act for fiscal year 2015-2016 and fiscal year
23 2016-2017.
24

25 **SET REGULATORY FEE FOR UTILITIES COMMISSION**

26 **SECTION 15.16.(a)** G.S. 62-302(a) reads as rewritten:

27 "(a) Fee Imposed. – It is the policy of the State of North Carolina to provide fair
28 regulation of public utilities in the interest of the public, as provided in G.S. 62-2. The cost of
29 regulating public utilities is a burden incident to the privilege of operating as a public utility.
30 Therefore, for the purpose of defraying the cost of regulating public utilities, every public
31 utility subject to the jurisdiction of the Commission shall pay a quarterly regulatory fee, in
32 addition to all other fees and taxes, as provided in this section. The fees collected shall be used
33 only to pay the expenses of the Commission and the Public Staff in regulating public utilities in
34 the interest of the public-public and to maintain a reasonable margin for a reserve fund. The
35 amount of the reserve may not exceed one-half of the cost of operating the Commission and the
36 Public Staff as reflected in the certified budget for the previous fiscal year.

37 It is also the policy of the State to provide limited oversight of certain electric membership
38 corporations as provided in G.S. 62-53. Therefore, for the purpose of defraying the cost of
39 providing the oversight authorized by G.S. 62-53 and G.S. 117-18.1, each fiscal year each
40 electric membership corporation whose principal purpose is to furnish or cause to be furnished
41 bulk electric supplies at wholesale as provided in G.S. 117-16 shall pay an annual fee as
42 provided in this section."

43 **SECTION 15.16.(b)** Subdivisions 14.19(e1)(4), (5), (6), and (10) of S.L. 2009-451
44 are repealed.

45 **SECTION 15.16.(c)** G.S. 62-302, as amended by subsection (a) of this section,
46 reads as rewritten:

47 "(a) Fee Imposed. – It is the policy of the State of North Carolina to provide fair
48 regulation of public utilities in the interest of the public, as provided in G.S. 62-2. The cost of
49 regulating public utilities is a burden incident to the privilege of operating as a public utility.
50 Therefore, for the purpose of defraying the cost of regulating public utilities, every public
51 utility subject to the jurisdiction of the Commission shall pay a quarterly regulatory fee, in

1 addition to all other fees and taxes, as provided in this section. The fees collected shall be used
 2 only to pay the expenses of the Commission and the Public Staff in regulating public utilities in
 3 the interest of the public and to maintain a reasonable margin for a reserve fund. The amount of
 4 the reserve may not exceed one-half of the cost of operating the Commission and the Public
 5 Staff as reflected in the certified budget for the previous fiscal year.

6 It is also the policy of the State to provide limited oversight of certain electric membership
 7 corporations as provided in G.S. 62-53. Therefore, for the purpose of defraying the cost of
 8 providing the oversight authorized by G.S. 62-53 and G.S. 117-18.1, each fiscal year each
 9 electric membership corporation whose principal purpose is to furnish or cause to be furnished
 10 bulk electric supplies at wholesale as provided in G.S. 117-16 shall pay an annual fee as
 11 provided in this section.

12 (b) Public Utility Rate. –

13 (1) Repealed by Session Laws 2000-140, s. 56, effective July 21, 2000.

14 (2) Unless adjusted under subdivision (3) of this subsection, the public utility
 15 fee is a percentage of a utility's jurisdictional revenues as follows:

16 Noncompetitive jurisdictional revenues 0.148%

17 Subsection (h) competitive jurisdictional revenues 0.06%

18 Subsection (m) competitive jurisdictional revenues 0.05%

19 ~~For noncompetitive jurisdictional revenues as defined in sub-subdivision~~
 20 ~~(4)a. of this subsection, the public utility regulatory fee for each~~
 21 ~~fiscal year is the greater of (i) a percentage rate, established by the~~
 22 ~~General Assembly, of each public utility's noncompetitive~~
 23 ~~jurisdictional revenues for each quarter or (ii) six dollars and~~
 24 ~~twenty five cents (\$6.25) each quarter. For subsection (h)~~
 25 ~~competitive jurisdictional revenues as defined in sub-subdivision~~
 26 ~~(4)b. of this subsection, and subsection (m) competitive jurisdictional~~
 27 ~~revenues as defined in sub-subdivision (4)c. of this subsection, the~~
 28 ~~public utility regulatory fee for each fiscal year is a percentage rate~~
 29 ~~established by the General Assembly of each public utility's~~
 30 ~~competitive jurisdictional revenues for each quarter.~~

31 ~~When the Commission prepares its budget request for the upcoming~~
 32 ~~fiscal year, the Commission shall propose a percentage rate of the public~~
 33 ~~utility regulatory fee. For fiscal years beginning in an odd-numbered year,~~
 34 ~~that proposed rate shall be included in the budget message the Governor~~
 35 ~~submits to the General Assembly pursuant to G.S. 143C-3-5. For fiscal years~~
 36 ~~beginning in an even-numbered year, that proposed rate shall be included in~~
 37 ~~a special budget message the Governor shall submit to the General~~
 38 ~~Assembly. The General Assembly shall set the percentage rate of the public~~
 39 ~~utility regulatory fee by law.~~

40 ~~The percentage rate may not exceed the amount necessary to generate~~
 41 ~~funds sufficient to defray the estimated cost of the operations of the~~
 42 ~~Commission and the Public Staff for the upcoming fiscal year, including a~~
 43 ~~reasonable margin for a reserve fund. The amount of the reserve may not~~
 44 ~~exceed the estimated cost of operating the Commission and the Public Staff~~
 45 ~~for the upcoming fiscal year. In calculating the amount of the reserve, the~~
 46 ~~General Assembly shall consider all relevant factors that may affect the cost~~
 47 ~~of operating the Commission or the Public Staff or a possible unanticipated~~
 48 ~~increase or decrease in North Carolina jurisdictional revenues.~~

49 (3) In the first half of each calendar year, the Commission shall review the
 50 estimated cost of operating the Commission and the Public Staff for the next
 51 fiscal year, including a reasonable margin for the reserve fund allowed under

1 this section. In making this determination, the Commission shall consider all
 2 relevant factors that may affect the cost of operating the Commission or the
 3 Public Staff or a possible unanticipated change in competitive and
 4 noncompetitive jurisdictional revenues. If the estimated receipts provided for
 5 under this section are less than the estimated cost of operating the
 6 Commission and the Public Staff for the next fiscal year, including the
 7 reasonable margin for the reserve fund, then ~~If the Commission, the Public~~
 8 ~~Staff, or both experience a revenue shortfall, the Commission shall may~~
 9 ~~implement a temporary increase the public utility regulatory fee surcharge on~~
 10 ~~noncompetitive jurisdictional revenues effective for the next fiscal year. to~~
 11 ~~avert the deficiency that would otherwise occur. In no event may the total~~
 12 percentage rate of the public utility regulatory fee on noncompetitive
 13 jurisdictional revenues plus any surcharge established by the Commission
 14 exceed ~~twenty five hundredths percent (0.25%),~~ seventeen and one-half
 15 hundredths of one percent (0.175%). If the estimated receipts provided for
 16 under this section are more than the estimated cost of operating the
 17 Commission and the Public Staff for the next fiscal year, including the
 18 reasonable margin for the reserve fund, then the Commission shall decrease
 19 the public utility regulatory fee on noncompetitive jurisdictional revenues
 20 effective for the next fiscal year.

21 (4) As used in this section:

- 22 a. "Noncompetitive jurisdictional revenues" means all revenues derived
 23 or realized from intrastate tariffs, rates, and charges approved or
 24 allowed by the Commission or collected pursuant to Commission
 25 order or rule, but not including tap-on fees or any other form of
 26 contributions in aid of construction.
- 27 b. "Subsection (h) competitive jurisdictional revenues" means all
 28 revenues derived from retail services provided by local exchange
 29 companies and competing local providers that have elected to operate
 30 under G.S. 62-133.5(h).
- 31 c. "Subsection (m) competitive jurisdictional revenues" means all
 32 revenues derived from retail services provided by local exchange
 33 companies and competing local providers that have elected to operate
 34 under G.S. 62-133.5(m).

35 (b1) Electric Membership Corporation Rate. – The electric membership corporation
 36 regulatory fee for each fiscal year ~~shall be a dollar amount as established by the General~~
 37 ~~Assembly by law is~~ two hundred thousand dollars (\$200,000).

38 ~~When the Commission prepares its budget request for the upcoming fiscal year, the~~
 39 ~~Commission shall propose the amount of the electric membership corporation regulatory fee.~~
 40 ~~For fiscal years beginning in an odd numbered year, the proposed amount shall be included in~~
 41 ~~the budget message the Governor submits to the General Assembly pursuant to G.S. 143C-3-5.~~
 42 ~~For fiscal years beginning in an even numbered year, the proposed amount shall be included in~~
 43 ~~a special budget message the Governor shall submit to the General Assembly.~~

44 ~~The amount of the electric membership corporation regulatory fee proposed by the~~
 45 ~~Commission may not exceed the amount necessary to defray the estimated cost of the~~
 46 ~~operations of the Commission and the Public Staff for the regulation of the electric membership~~
 47 ~~corporations in the upcoming fiscal year, including a reasonable margin for a reserve fund. The~~
 48 ~~amount of the reserve may not exceed the estimated cost of the Commission and the Public~~
 49 ~~Staff for the regulation of the electric membership corporations for the upcoming fiscal year.~~

50 ...

(e) ~~Recovery of fee increase.~~Fee Changes. – If a utility's regulatory fee obligation is ~~increased, changed,~~ the Commission shall either adjust the utility's rates to reflect the change ~~allow for the recovery of the increased fee obligation,~~ or approve the utility's request for an accounting order allowing deferral of the ~~increase change~~ in the fee obligation."

SECTION 15.16.(d) G.S. 62-302(b)(2), as amended by subsection (c) of this section, reads as rewritten:

"(2) Unless adjusted under subdivision (3) of this subsection, the public utility fee is a percentage of a utility's jurisdictional revenues as follows:

| | |
|--|---------------------------------|
| Noncompetitive jurisdictional revenues | 0.148% |
| Subsection (h) competitive jurisdictional revenues | 0.06% <u>0.04%</u> |
| Subsection (m) competitive jurisdictional revenues | 0.05% <u>0.02%</u> " |

SECTION 15.16.(e) Subsection (c) of this section is effective July 1, 2015, and applies to jurisdictional revenues earned in each quarter that begins on or after July 1, 2015. Subsection (d) of this section is effective July 1, 2016, and applies to jurisdictional revenues earned in each quarter that begins on or after July 1, 2016. The remainder of this section is effective on the date this section becomes law.

UTILITY COMMISSION FEES AND CHARGES

SECTION 15.16A.(a) The Utilities Commission and Public Staff shall jointly review all fees and charges provided for in G.S. 62-300 to determine (i) whether the fees and charges are sufficient to cover the costs of processing the applications and filings required by G.S. 62-300 and (ii) whether new categories should be established to impose fees or charges on persons or entities who make applications or filings to the Utilities Commission but are not expressly included in any of the current categories listed in G.S. 62-300. The review may also include any other relevant matters related to fees and charges for applications and filings made to the Utilities Commission.

SECTION 15.16A.(b) By April 1, 2016, the Utilities Commission and Public Staff shall report their findings, including any recommendations on amending the fees and charges for applications and filings under G.S. 62-300, to the Joint Legislative Commission on Energy Policy, the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources and the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division.

MUNICIPAL SERVICE DISTRICTS/CONTRACTS & REFERENDUM AUTHORITY

SECTION 15.16B.(a) G.S. 160A-536 reads as rewritten:

"§ 160A-536. **Purposes for which districts may be established.**

...

(d) **Contracts.** – A city may provide services, facilities, functions, or promotional and developmental activities in a service district with its own forces, through a contract with another governmental agency, through a contract with a private agency, or by any combination thereof. Any contracts entered into pursuant to this ~~paragraph~~ subsection shall (i) specify the purposes for which city moneys are to be ~~used and shall be used,~~ (ii) require specific approval by the city council for all expenditures of moneys pursuant to the contract, and (iii) require an appropriate accounting for those moneys at the end of each fiscal year or other appropriate period.

...."

SECTION 15.16B.(b) G.S. 160A-541 reads as rewritten:

"§ 160A-541. **Abolition of service ~~districts.~~districts by city council.**

Upon finding that there is no longer a need for a particular service district, the city council may by resolution abolish that district. The council shall hold a public hearing before adopting a resolution abolishing a district. Notice of the hearing shall state the date, hour and place of the

1 hearing, and its subject, and shall be published at least once not less than one week before the
 2 date of the hearing. The abolition of any service district shall take effect at the end of a fiscal
 3 year following passage of the resolution, as determined by the council."

4 **SECTION 15.16B.(c)** Article 23 of Chapter 160A of the General Statutes is
 5 amended by adding a new section to read as follows:

6 "**§ 160A-541.1. Abolition of service districts by referendum.**

7 (a) A petition seeking the abolition of any service district established under
 8 G.S. 160A-536 shall be filed with the city clerk, who shall immediately forward the petition to
 9 the county board of elections that conducts elections for the city. The petition shall bear the
 10 signatures equal in number to at least fifteen percent (15%) of the registered voters of the
 11 service district, as shown by the registration records of the last preceding general municipal
 12 election, each voter's residence address, and each voter's date of birth.

13 (b) The county board of elections shall verify the petition signatures. If a sufficient
 14 petition is submitted, the county board of elections shall certify its sufficiency to the city
 15 council, and the city council shall adopt a resolution setting the date for the referendum. The
 16 city council shall notify the county board of elections of the date set for the referendum and
 17 shall provide the board with a legible map and clear written description of the affected service
 18 district. The referendum may be called only if there are no outstanding general obligation
 19 bonds of the service district. No referendum shall be held in a service district in which there are
 20 no voters.

21 (c) The county board of elections shall cause legal notice of the election to be
 22 published. The notice shall include the general statement of the referendum. The referendum
 23 shall be conducted, returned, and the results declared as in other municipal elections in the city.
 24 Only registered voters of the affected service district shall be allowed to vote on the
 25 referendum. The city shall reimburse the county board of elections for the cost incurred in
 26 conducting the election, as required by G.S. 163-284.

27 (d) The referendum of the proposed abolition of more than one service district may be
 28 submitted at the same election, but, as to the proposed abolition of each service district, there
 29 shall be an entirely separate ballot question.

30 (e) The ballots used in a referendum shall submit the following proposition:

31 " FOR AGAINST

32 The abolition of (name of the service district)."

33 (f) If a majority of the votes cast are in favor of abolishing the service district, the
 34 abolition of the service district shall take effect at the end of the fiscal year immediately
 35 following the date the county board of elections certifies the results of the election, and the city
 36 council shall thereafter have no authority to levy a tax under G.S. 160A-542 within the
 37 abolished service district. If a majority of the votes cast are against abolishing the service
 38 district, the service district shall remain in effect until amended or abolished as provided for in
 39 this Article."

40 **SECTION 15.16B.(d)** This section is effective when this act becomes law.

41
 42 **GRASSROOTS SCIENCE PROGRAM**

43 **SECTION 15.18.(a)** Of the funds appropriated in this act to the Department of
 44 Commerce for State-Aid, the sum of two million two hundred fifty thousand dollars
 45 (\$2,250,000) is allocated as grants-in-aid for the 2015-2016 fiscal year:

| | 2015-2016 |
|---------------------------------------|------------------|
| 47 Aurora Fossil Museum | \$60,526 |
| 48 Cape Fear Museum | \$60,488 |
| 49 Carolina Raptor Center | \$60,483 |
| 50 Catawba Science Center | \$93,328 |
| 51 Colburn Earth Science Museum, Inc. | \$58,640 |

| | | |
|----|--|---------------------|
| 1 | Core Sound Waterfowl Museum | \$59,430 |
| 2 | Cowan Museum of History and Science | \$58,514 |
| 3 | Dan Nicholas Park (Rowan County) | \$58,000 |
| 4 | Discovery Place | \$94,939 |
| 5 | Discovery Place KIDS (Rockingham) | \$58,000 |
| 6 | Eastern NC Regional Science Center | \$59,637 |
| 7 | Fascinate-U | \$65,792 |
| 8 | Granville County Museum Commission, | |
| 9 | Inc. – Harris Gallery | \$61,068 |
| 10 | Greensboro Children's Museum | \$79,322 |
| 11 | Greensboro Science Center | \$115,410 |
| 12 | Hands On! – A Child's Gallery | \$58,534 |
| 13 | Highlands Nature Center | \$62,887 |
| 14 | Imagination Station | \$65,349 |
| 15 | The Iredell Museums, Inc. | \$58,360 |
| 16 | Kidsenses | \$64,967 |
| 17 | Marbles Kids Museum | \$70,582 |
| 18 | Museum of Coastal Carolina | \$59,117 |
| 19 | North Carolina Estuarium | \$62,359 |
| 20 | North Carolina Museum of Life | |
| 21 | and Science | \$77,040 |
| 22 | Pisgah Astronomical Research Institute | \$83,281 |
| 23 | Port Discover: Northeastern | |
| 24 | North Carolina's Center for | |
| 25 | Hands-On Science, Inc. | \$60,248 |
| 26 | Rocky Mount Children's Museum | \$67,464 |
| 27 | Schiele Museum of Natural History | |
| 28 | and Planetarium, Inc. | \$107,868 |
| 29 | Sci Works Science Center and | |
| 30 | Environmental Park of Forsyth County | \$61,943 |
| 31 | Sylvan Heights Waterfowl Park | |
| 32 | and Eco-Center | \$68,981 |
| 33 | The Rankin Museum, Inc. | \$58,000 |
| 34 | Western North Carolina Nature Center | \$59,893 |
| 35 | Wilmington Children's Museum | \$59,550 |
| 36 | Total | \$2,250,000. |

37
38 **SECTION 15.18.(b)** No later than March 1, 2016, the Department of Commerce
39 shall report to the Fiscal Research Division all of the following information for each museum
40 that receives funds under this section:

- 41 (1) For museums that operate on a fiscal year, the actual operating budget for
42 the 2014-2015 fiscal year. For museums that operate on a calendar year, the
43 actual operating budget for the 2014 calendar year.
44 (2) The proposed operating budget for the 2015-2016 fiscal year.
45 (3) The total attendance at the museum during the 2015 calendar year.

46 **SECTION 15.18.(c)** As a condition for qualifying to receive funding under this
47 section, all of the following documentation shall, no later than November 1, 2015, be submitted
48 for each museum under this section to the Department of Commerce for the fiscal year that
49 most recently ended and only those costs that are properly documented under this subsection
50 are allowed by the Department in calculating the distribution of funds under this section:

- 1 (1) Each museum under this section shall submit its IRS (Internal Revenue
2 Service) Form 990 to show its annual operating expenses, its annual report,
3 and a reconciliation that explains any differences between expenses as
4 shown on the IRS Form 990 and the annual report.
- 5 (2) Each friends association of a museum under this section shall submit its IRS
6 Form 990 to show its reported expenses for the museum, its annual report,
7 and a reconciliation that explains any differences between expenses as
8 shown on the IRS Form 990 and the annual report, unless the association
9 does not have both an IRS Form 990 and an annual report available; in
10 which case, it shall submit either an IRS Form 990 or an annual report.
- 11 (3) The chief financial officer of each county or municipal government that
12 provides funds for the benefit of the museum shall submit a detailed signed
13 statement of documented costs spent for the benefit of the museum that
14 includes documentation of the name, address, title, and telephone number of
15 the person making the assertion that the museum receives funds from the
16 county or municipality for the benefit of the museum.
- 17 (4) The chief financial officer of each county or municipal government or each
18 friends association that provides indirect or allocable costs that are not
19 directly charged to a museum under this section but that benefit the museum
20 shall submit in the form of a detailed statement enumerating each cost by
21 type and amount that is verified by the financial officer responsible for the
22 completion of the documentation and that includes the name, address, title,
23 and telephone number of the person making the assertion that the county,
24 municipality, or association provides indirect or allocable costs to the
25 museum.

26 **SECTION 15.18.(d)** As used in subsection (c) of this section, "friends association"
27 means a nonprofit corporation established for the purpose of supporting and assisting a
28 museum that receives funding under this section.

29 **SECTION 15.18.(e)** Each museum listed in subsection (a) of this section shall do
30 the following:

- 31 (1) By September 1, 2015, and more frequently as requested, report to the Joint
32 Legislative Commission on Governmental Operations and the Fiscal
33 Research Division on prior State fiscal year program activities, objectives,
34 and accomplishments and prior State fiscal year itemized expenditures and
35 fund sources.
- 36 (2) Provide to the Fiscal Research Division a copy of the museum's annual
37 audited financial statement within 30 days of issuance of the statement.

39 **GRASSROOTS SCIENCE PROGRAM/COMPETITIVE GRANT PROGRAM**

40 **SECTION 15.18A.(a)** Effective July 1, 2016, the Grassroots Science Program
41 within the Department of Commerce is transferred to the North Carolina State Museum of
42 Natural Sciences in the Department of Natural and Cultural Resources, as enacted by Section
43 14.30 of this act.

44 **SECTION 15.18A.(b)** Part 40 of Article 2 of Chapter 143B of the General
45 Statutes, as enacted by Section 14.30 of this act, is amended by adding a new section to read as
46 follows:

47 **"§ 143B-135.227. Grassroots science competitive grant program.**

48 (a) The North Carolina State Museum of Natural Sciences (hereinafter "Museum of
49 Natural Sciences") shall administer the Grassroots Science Program as a competitive grant
50 program. Any museum in the State may apply for a grant under the program, including a
51 museum that has received a grant-in-aid as a grassroots science museum in prior fiscal years,

1 but grant funds shall be awarded only if the museum meets the criteria established in subsection
2 (c) of this section. No museum shall be guaranteed a grant under the competitive grant
3 program.

4 (b) For each fiscal year, the Museum of Natural Sciences shall reserve seven hundred
5 fifty thousand dollars (\$750,000) for the purpose of awarding grants to museums located in
6 development tier one counties and six hundred thousand dollars (\$600,000) for museums
7 located in development tier two counties. The development tier designation of a county shall be
8 determined as provided in G.S. 143B-437.08. If, after the initial awarding of grants to all
9 museum applicants who meet the eligibility criteria provided for in subsection (c) of this
10 section, there are funds remaining in any development tier category, the Museum of Natural
11 Sciences may reallocate those funds to another development tier category. The maximum
12 amount of each grant awarded in each fiscal year shall be (i) seventy-five thousand dollars
13 (\$75,000) for a museum in a development tier one county; (ii) sixty thousand dollars (\$60,000)
14 for a museum in a development tier two county; and (iii) fifty thousand (\$50,000) for a
15 museum in a development tier three county.

16 (c) To be eligible to receive a grant under the competitive grant program, a museum
17 shall demonstrate:

- 18 (1) That it is a science center or museum or a children's museum that is
19 physically located in the State.
- 20 (2) That it has been open, operating, and exhibiting science or Science,
21 Technology, Engineering, and Math (STEM) education objects to the
22 general public at least 120 days of each year for the past two or more years.
- 23 (3) That it is a nonprofit organization that is exempt from federal income taxes
24 pursuant to section 501(c)(3) of the Internal Revenue Code.
- 25 (4) That it has on its staff at least one full-time professional person.
- 26 (5) That its governing body has adopted a mission statement that includes
27 language that shows the museum has a concentration on science or STEM
28 education and that the adopted mission statement has been in effect for the
29 past two or more years.

30 (d) The Museum of Natural Sciences shall, in awarding grants under this section, give
31 priority to museums that:

- 32 (1) When compared to other museum applicants:
 - 33 a. Are located in counties that are more economically distressed
34 according to the annual rankings prepared by the Department of
35 Commerce pursuant to G.S. 143B-437.08(c).
 - 36 b. Generate a larger portion of their operating funds from non-State
37 revenue.
 - 38 c. Have a higher attendance to population ratio.
- 39 (2) Partner with other museums in the State to share exhibits, programs, or other
40 activities.
- 41 (3) Are not located in close proximity to other science or STEM education
42 museums."

43 **SECTION 15.18A.(c)** Subsection (b) of this section is effective July 1, 2016.

44 **SECTION 15.18A.(d)** By March 1, 2016, the Museum of Natural Sciences shall
45 submit guidelines for the submission of applications and the awarding of grants for the
46 competitive grant program provided for in subsection (b) of this section to the chairs of the
47 House of Representatives Appropriations Committee on Agriculture and Natural and Economic
48 Resources and the Senate Appropriations Committee on Natural and Economic Resources and
49 the Fiscal Research Division.

51 **COMMERCE NONPROFITS/REPORTING REQUIREMENTS**

1 SECTION 15.19. High Point Furniture Market Authority shall do the following:

- 2 (1) By September 1 of each year, and more frequently as requested, report to the
 3 Joint Legislative Commission on Governmental Operations and the Fiscal
 4 Research Division on prior State fiscal year program activities, objectives,
 5 and accomplishments and prior State fiscal year itemized expenditures and
 6 fund sources.
 7 (2) Provide to the Fiscal Research Division a copy of the Authority's annual
 8 audited financial statement within 30 days of issuance of the statement.
 9

10 **CREATE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON NATURAL AND**
 11 **ECONOMIC RESOURCES**

12 SECTION 15.24.(a) Chapter 120 of the General Statutes is amended by adding a
 13 new Article to read:

14 "Article 36.

15 "Joint Legislative Oversight Committee on Natural and Economic Resources.

16 **"§ 120-310. Creation and membership of Joint Legislative Oversight Committee on**
 17 **Natural and Economic Resources.**

18 (a) The Joint Legislative Oversight Committee on Natural and Economic Resources is
 19 established. The Committee consists of 12 members as follows:

- 20 (1) Six members of the Senate appointed by the President Pro Tempore of the
 21 Senate. At least three of the members shall be members of the Senate
 22 appropriations committee that has jurisdiction over the agencies set out in
 23 G.S. 120-296(a)(1).
 24 (2) Six members of the House of Representatives appointed by the Speaker of
 25 the House of Representatives. At least three of the members shall be
 26 members of the House of Representatives appropriations committee that has
 27 jurisdiction over the agencies set out in G.S. 120-296(a)(1).

28 (b) Terms on the Committee are for two years and begin on the convening of the
 29 General Assembly in each odd-numbered year. Members may complete a term of service on
 30 the Committee even if they do not seek reelection or are not reelected to the General Assembly,
 31 but resignation or removal from service in the General Assembly constitutes resignation or
 32 removal from service on the Committee.

33 (c) A member continues to serve until a successor is appointed. A vacancy shall be
 34 filled within 30 days by the officer who made the original appointment.

35 **"§ 120-311. Purpose and powers of Committee.**

36 (a) The Joint Legislative Oversight Committee on Natural and Economic Resources
 37 shall examine on a continuing basis the services provided by the departments and agencies set
 38 out in this subsection in order to make ongoing recommendations to the General Assembly on
 39 ways to improve the effectiveness, efficiency, and quality of State government services. The
 40 Committee has the following powers and duties:

- 41 (1) Study the programs, organization, operations, and policies of the following
 42 agencies:
 43 a. Department of Agriculture and Consumer Services.
 44 b. Department of Environmental Quality.
 45 c. Department of Natural and Cultural Resources.
 46 d. Wildlife Resources Commission.
 47 e. Department of Labor.
 48 f. Department of Commerce.
 49 g. Any other agency under the jurisdiction of the Senate and House of
 50 Representatives appropriations committees on agriculture, natural, or
 51 economic resources.

- (2) Review compliance of budget actions directed by the General Assembly.
- (3) Monitor expenditures, deviations, and changes made by the agencies set out in subdivision (1) of subsection (a) of this section to the certified budget.
- (4) Review policy changes as directed by law.
- (5) Receive presentations of reports from agencies directed in the law, including audits, studies, and other reports.
- (6) Review any issues that arise during the interim period between sessions of the General Assembly and provide a venue for any of these issues to be heard in a public setting.
- (7) Monitor the quality of services provided by cultural, natural, and economic resources agencies to other agencies and the public.
- (8) Identify opportunities for cultural, natural, and economic resources agencies to coordinate and collaborate to eliminate duplicative functions.
- (9) Have presentations and reports on any other matters that the Committee considers necessary to fulfill its mandate.

(b) The Committee may make reports to the General Assembly. A report to the General Assembly may contain legislation needed to implement a recommendation of the Committee.

§ 120-312. Organization of Committee.

(a) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Joint Legislative Oversight Committee on Natural and Economic Resources. The Committee shall meet upon the joint call of the cochairs.

(b) A quorum of the Committee is five members. No action may be taken except by a majority vote at a meeting at which a quorum is present. While in the discharge of its official duties, the Committee has the powers of a joint committee under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4.

(c) Members of the Committee shall receive subsistence and travel expenses as provided in G.S. 120-3.1. The Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. Upon the direction of the Legislative Services Commission, the Directors of Legislative Assistants of the Senate and of the House of Representatives shall assign clerical staff to the Committee. The expenses for clerical employees shall be borne by the Committee.

(d) The Committee cochairs may establish subcommittees for the purpose of examining issues relating to services provided by particular divisions within the State's cultural, natural, and economic resources departments.

§ 120-313. Reports to Committee.

Whenever a department, office, or agency set out in subdivision (1) of subsection (a) of G.S. 120-296 is required by law to report to the General Assembly or to any of its permanent committees or subcommittees on matters affecting the services the department or agency provides, the department or agency shall transmit a copy of the report to the cochairs of the Joint Legislative Oversight Committee on Natural and Economic Resources."

SECTION 15.24.(b) This section is effective August 1, 2015.

PART XVI. DEPARTMENT OF PUBLIC SAFETY

SUBPART XVI-A. GENERAL PROVISIONS

GRANT REPORTING AND MATCHING FUNDS

SECTION 16A.1.(a) The Department of Public Safety, the Department of Justice, and the Judicial Department shall report by May 1 of each year to the chairs of the House of Representatives and Senate Appropriations Committees on Justice and Public Safety on grant

1 funds received or preapproved for receipt by those departments. The report shall include
2 information on the amount of grant funds received or preapproved for receipt by each
3 department, the use of the funds, the State match expended to receive the funds, and the period
4 to be covered by each grant. If the department intends to continue the program beyond the end
5 of the grant period, the department shall report on the proposed method for continuing the
6 funding of the program at the end of the grant period. Each department shall also report on any
7 information it may have indicating that the State will be requested to provide future funding for
8 a program presently supported by a local grant.

9 **SECTION 16A.1.(b)** Notwithstanding the provisions of G.S. 143C-6-9, the
10 Department of Public Safety may use up to the sum of one million two hundred thousand
11 dollars (\$1,200,000) during the 2015-2016 fiscal year from funds available to the Department
12 to provide the State match needed in order to receive grant funds. Prior to using funds for this
13 purpose, the Department shall report to the chairs of the House of Representatives and Senate
14 Appropriations Committees on Justice and Public Safety on the grants to be matched using
15 these funds.

16 17 **CHANGE RECIPIENTS OF VICTIMS' COMPENSATION REPORT**

18 **SECTION 16A.2.** G.S. 15B-21 reads as rewritten:

19 **"§ 15B-21. Annual report.**

20 The Commission shall, by March 15 each year, prepare and transmit to the ~~Governor and~~
21 ~~the General Assembly~~ chairs of the Joint Legislative Oversight Committee on Justice and Public
22 Safety and to the chairs of the House and Senate Appropriations Committees on Justice and
23 Public Safety a report of its activities in the prior fiscal year and the current fiscal year to date.

24 The report shall include:

- 25 (1) The number of claims filed;
- 26 (2) The number of awards made;
- 27 (2a) The number of pending cases by year received;
- 28 (3) The amount of each award;
- 29 (4) A statistical summary of claims denied and awards made;
- 30 (5) The administrative costs of the Commission, including the compensation of
31 commissioners;
- 32 (6) The current unencumbered balance of the North Carolina Crime Victims
33 Compensation Fund;
- 34 (7) The amount of funds carried over from the prior fiscal year;
- 35 (8) The amount of funds received in the prior fiscal year from the Division of
36 Adult Correction of the Department of Public Safety and from the
37 compensation fund established pursuant to the Victims Crime Act of 1984,
38 42 U.S.C. § 10601, et seq.; and
- 39 (9) The amount of funds expected to be received in the current fiscal year, as
40 well as the amount actually received in the current fiscal year on the date of
41 the report, from the Division of Adult Correction of the Department of
42 Public Safety and from the compensation fund established pursuant to the
43 Victims Crime Act of 1984, 42 U.S.C. § 10601, et seq.

44 The Attorney General and State Auditor shall assist the Commission in the preparation of
45 the report required by this section."
46

47 **LIMITED AUTHORITY TO ELIMINATE AND RECLASSIFY CERTAIN POSITIONS**

48 **SECTION 16A.3.** Notwithstanding any other provision of law, subject to the
49 approval of the Director of the Budget, the Secretary of the Department of Public Safety may
50 reclassify or eliminate existing positions in the Division of Administration that are not
51 specifically addressed in this act as needed for the efficient operation of the Department. No

1 position shall be reclassified pursuant to this section solely for the purpose of providing a
2 person in that position with a salary increase. The Secretary of the Department of Public Safety
3 shall report any position reclassification undertaken pursuant to this section to the chairs of the
4 House and Senate Appropriations Committees on Justice and Public Safety and the Fiscal
5 Research Division within 30 days of the reclassification. The report shall include the position
6 number, original title, original fund code, original budgeted salary, new title, new fund code,
7 and new budgeted salary for each reclassified position.

8 9 **SAMARCAND TRAINING ACADEMY**

10 **SECTION 16A.4.** The former juvenile detention facility known as Samarkand
11 Manor, located in Moore County, is redesignated a law enforcement and corrections training
12 facility and assigned to the Office of the Secretary of the Department of Public Safety. The
13 facility shall be renamed Samarcand Training Academy and shall be administered by a
14 Director. The operating budget for Samarcand Training Academy shall be funded by the
15 Department of Public Safety but shall be independent of the operating budget of any Division
16 within the Department and shall be managed and administered by the Director of the Academy
17 with oversight by the Office of the Secretary of the Department of Public Safety.

18 19 **SENSITIVE PUBLIC SECURITY INFORMATION IS NOT A PUBLIC RECORD**

20 **SECTION 16A.5.** G.S. 132-1.7 reads as rewritten:

21 "**§ 132-1.7. Sensitive public security information.**

22 (a) Public records, as defined in G.S. 132-1, shall not include information containing
23 specific details of public security plans and arrangements or the detailed plans and drawings of
24 public buildings and infrastructure ~~faelities-facilities~~ or plans, schedules, or other documents
25 that include information regarding patterns or practices associated with executive protection
26 and security.

27 (a1) Public records, as defined in G.S. 132-1, shall not include specific security
28 information or detailed plans, patterns, or practices associated with prison operations.

29 (a2) Public records, as defined in G.S. 132-1, shall not include specific security
30 information or detailed plans, patterns, or practices to prevent or respond to criminal, gang, or
31 organized illegal activity.

32 (b) Public records as defined in G.S. 132-1 do not include plans to prevent or respond to
33 terrorist activity, to the extent such records set forth vulnerability and risk assessments,
34 potential targets, specific tactics, or specific security or emergency procedures, the disclosure
35 of which would jeopardize the safety of governmental personnel or the general public or the
36 security of any governmental facility, building, structure, or information storage system.

37 (c) Information relating to the general adoption of public security plans and
38 arrangements, and budgetary information concerning the authorization or expenditure of public
39 funds to implement public security plans and arrangements, or for the construction, renovation,
40 or repair of public buildings and infrastructure facilities shall be public records."

41 42 **LAPSED SALARY SAVINGS**

43 **SECTION 16A.6.** Notwithstanding G.S. 143C-6-9, the Department of Public
44 Safety shall revert to the General Fund a minimum of seventeen million eight hundred ninety
45 thousand two hundred nine dollars (\$17,890,209) from lapsed salary savings by June 30, 2016.

46 47 **SUBPART XVI-B. DIVISION OF LAW ENFORCEMENT**

48 49 **USE OF SEIZED AND FORFEITED PROPERTY TRANSFERRED TO STATE LAW** 50 **ENFORCEMENT AGENCIES BY THE FEDERAL GOVERNMENT**

1 **SECTION 16B.1.(a)** Seized and forfeited assets transferred to the Department of
2 Public Safety during the 2015-2017 fiscal biennium pursuant to applicable federal law shall be
3 credited to the budget of the department and shall result in an increase of law enforcement
4 resources for the department. The Department of Public Safety shall make the following reports
5 to the chairs of the House of Representatives and Senate Appropriations Committees on Justice
6 and Public Safety:

7 (1) A report upon receipt of any assets.

8 (2) A report that shall be made prior to use of the assets on their intended use
9 and the departmental priorities on which the assets may be expended.

10 (3) A report on receipts, expenditures, encumbrances, and availability of these
11 assets for the previous fiscal year, which shall be made no later than
12 September 1 of each year.

13 **SECTION 16B.1.(b)** The General Assembly finds that the use of seized and
14 forfeited assets transferred pursuant to federal law for new personnel positions, new projects,
15 acquisition of real property, repair of buildings where the repair includes structural change, and
16 construction of or additions to buildings may result in additional expenses for the State in
17 future fiscal periods. Therefore, the Department of Public Safety is prohibited from using these
18 assets for such purposes without the prior approval of the General Assembly.

19 **SECTION 16B.1.(c)** Nothing in this section prohibits North Carolina law
20 enforcement agencies from receiving funds from the United States Department of Justice, the
21 United States Department of the Treasury, and the United States Department of Health and
22 Human Services.

23 24 **VOICE INTEROPERABILITY PLAN FOR EMERGENCY RESPONSE (VIPER)** 25 **SYSTEM**

26 **SECTION 16B.2.** The Department of Public Safety shall report annually no later
27 than March 1 to the chairs of the Joint Legislative Oversight Committee on Justice and Public
28 Safety on the progress of the State's VIPER system.

29 30 **GANGNET REPORT AND RECOMMENDATIONS**

31 **SECTION 16B.3.(a)** Article 4 of Chapter 20 of the General Statutes is amended by
32 adding a new section to read:

33 **"§ 20-196.5. Report on gang prevention recommendations.**

34 The State Highway Patrol, in conjunction with the State Bureau of Investigation and the
35 Governor's Crime Commission, shall develop recommendations concerning the establishment
36 of priorities and needed improvements with respect to gang prevention and shall report those
37 recommendations to the chairs of the House of Representatives and Senate Appropriations
38 Committees on Justice and Public Safety and to the chairs of the Joint Legislative Oversight
39 Committee on Justice and Public Safety on or before March 1 of each year."

40 **SECTION 16B.3.(b)** G.S. 143B-1101(b) reads as rewritten:

41 "(b) The Governor's Crime Commission shall review the level of gang activity
42 throughout the State and assess the progress and accomplishments of the State, and of local
43 governments, in preventing the proliferation of gangs and addressing the needs of juveniles
44 who have been identified as being associated with gang activity.

45 ~~The Governor's Crime Commission shall develop recommendations concerning the~~
46 ~~establishment of priorities and needed improvements with respect to gang prevention and shall~~
47 ~~report those recommendations to the Chairs of the Senate Appropriations Committee on Justice~~
48 ~~and Public Safety, the Chairs of the House of Representatives Appropriations Subcommittee on~~
49 ~~Justice and Public Safety, and to the Chairs of the Joint Legislative Oversight Committee on~~
50 ~~Justice and Public Safety on or before March 1 of each year."~~

STATE CAPITOL POLICE/RECEIPT-SUPPORTED POSITIONS

SECTION 16B.4.(a) The State Capitol Police may contract with State agencies for the creation of receipt-supported positions to provide security services to the buildings occupied by those agencies.

SECTION 16B.4.(b) The State Capitol Police shall report the creation of any position pursuant to this section to the chairs of the House of Representatives and Senate Appropriations Committees on Justice and Public Safety and to the Fiscal Research Division within 30 days of the position's creation.

CHANGES TO EXPUNCTION AND METHAMPHETAMINE REPORTING REQUIREMENTS

SECTION 16B.5.(a) G.S. 15A-160 reads as rewritten:

"§ 15A-160. Reporting requirement.

The Department of Public Safety, in conjunction with the Department of Justice and the Administrative Office of the Courts-Courts, shall report jointly to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety Oversight by September 1 of each year regarding expunctions. The report shall include all of the following information:

- (1) The number and types of expunctions granted during the fiscal year in which the report is made.
- (2) The number and type of expunctions granted each fiscal year for the five fiscal years preceding the date of the report.
- (3) A full accounting of how the agencies have spent the receipts generated by the expunction fees received during the fiscal year in which the report is made and for the five preceding fiscal years."

SECTION 16B.5.(b) G.S. 90-113.64 reads as rewritten:

"§ 90-113.64. SBI annual report.

Beginning with the 2011 calendar year, the State Bureau of Investigation shall determine the number of methamphetamine laboratories discovered in the State each calendar year and report its findings to the Joint Legislative Oversight Committee on Justice and Public Safety and to the Legislative Commission on Methamphetamine Abuse by March 1, 2012, for the 2011 calendar year and each March 1 thereafter for the preceding calendar year. The State Bureau of Investigation shall participate in the High Intensity Drug Trafficking Areas (HIDTA) program, assist in coordinating the drug control efforts between local and State law enforcement agencies, and monitor the implementation and effectiveness of the electronic record-keeping requirements included in G.S. 90-113.52A and G.S. 90-113.56. The SBI shall include its findings in the report to the Commission required by this section."

CLARIFY BOXING COMMISSION FEE

SECTION 16B.6.(a) G.S. 143-655(b1) reads as rewritten:

"(b1) Admission Fees. – The Branch shall collect a fee in the amount of two dollars (\$2.00) per ~~each ticket sold~~ spectator to attend events regulated in this Article."

SECTION 16B.6.(b) This section is effective on July 1, 2015, and applies to fees collected or assessed on or after that date.

SBI/ALE ASHEVILLE REGIONAL OFFICE

SECTION 16B.7. Section 17.1(aaaa) of S.L. 2014-100 reads as rewritten:

"SECTION 17.1.(aaaa) The Department of Public Safety shall consolidate ALE and SBI Regions and Regional Offices. The Asheville Regional Office shall be operational ~~by July 1, 2015~~ upon completion of a new facility. All other Regional Offices shall be operational by October 1, 2014."

CLARIFY HAZARDOUS MATERIALS FEE

SECTION 16B.8.(a) G.S. 166A-29.1 reads as rewritten:

"§ 166A-29.1. Hazardous materials facility fee.

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

- (1) EPCRA. – The federal Emergency Planning and Community Right-to-Know Act, P.L. No. 99-499 et. seq.
- (2) Extremely hazardous substance. – Any substance, regardless of its state, set forth in 40 C.F.R. Part 355, Appendix A or B.
- (3) Hazardous chemical. – As defined in 29 C.F.R. 1910.1200(c), except that the term does not include any of the following:
 - a. Any food, food additive, color additive, drug, or cosmetic regulated by the Food and Drug Administration.
 - b. Any substance present as a solid in any manufactured item to the extent exposure to the substance does not occur under normal conditions of use.
 - c. Any substance to the extent that it is used for personal, family, or household purposes or is present in the same form and concentration as a product packaged for distribution and use by the public.
 - d. Any substance to the extent that it is used in a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual.
 - e. Any substance to the extent that it is used in routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate consumer.

(b) Annual Fee Shall Be Charged. – A person or business required under Section 302 or 312 of EPCRA to submit a notification or an annual inventory form to the Division shall be required to pay to the Department an annual fee in the amount set forth in subsection (c) of this section.

(c) Amount of Fee. – The amount of the annual fee charged pursuant to subsection (b) of this section shall be calculated in accordance with the following, up to a maximum annual amount of ~~five thousand dollars (\$5,000)~~: five thousand dollars (\$5,000) per reporting site:

- (1) A fee of fifty dollars (\$50.00) shall be assessed for each substance at each site reported by a ~~facility~~ person or business that is classified as a hazardous chemical.
- (2) A fee of ninety dollars (\$90.00) shall be assessed for each substance at each site reported by a ~~facility~~ person or business that is classified as an extremely hazardous substance.

(d) Late Fees. – The Division may impose a late fee against a person or business for failure to submit a report or filing that substantially complies with the requirements of EPCRA by the federal filing deadline or for failure to pay any fee, including a late fee. This fee shall be in addition to the fee imposed pursuant to subsection (c) of this section. Prior to imposing a late fee, the Division shall provide the person or business who will be assessed the late fee with written notice that identifies the specific requirements that have not been met and informs the person or business of its intent to assess a late fee. The assessment of a late fee shall be subject to the following limitations:

- (1) If the report filing or fee is submitted within 30 days after receipt of the Division's notice that it intends to assess a late fee, no late fee shall be assessed.
- (2) If the report filing or fee has not been submitted by the end of the period set forth in subdivision (1) of this subsection, the Division may impose a late fee

- 1 in an amount equal to the amount of the fee charged pursuant to subsection
 2 (c) of this section.
- 3 (e) Exemptions. – No fee shall be charged under this section to any of the following:
- 4 (1) An owner or operator of a family farm enterprise, a facility owned by a State
 5 or local government, or a nonprofit corporation.
- 6 (2) An owner or operator of a facility where motor vehicle fuels are stored and
 7 from which such fuels are offered for retail sale. However, hazardous
 8 chemicals or extremely hazardous substances at such a facility, other than
 9 motor vehicle fuels for retail sale, shall not be subject to this exemption.
- 10 (3) A motor vehicle dealer, as that term is defined in G.S. 20-286(11).
- 11 (f) Use of Fee Proceeds. – The proceeds of fees assessed pursuant to this section shall
 12 be used for the following:
- 13 (1) To ~~pay offset~~ costs associated with the establishment and maintenance of a
 14 hazardous materials database, database and a hazardous materials response
 15 application.
- 16 (2) To ~~support the offset~~ costs associated with the operations of the regional
 17 response program for hazardous materials emergencies and terrorist
 18 incidents.
- 19 (3) To provide grants to counties for hazardous materials emergency response
 20 planning, training, and related exercises.
- 21 (4) To offset Division costs that directly support hazardous materials emergency
 22 preparedness and response."

23 **SECTION 16B.8.(b)** This section becomes effective on July 1, 2015, and applies
 24 to fees assessed or collected on or after that date.

25
 26 **AMEND NATIONAL GUARD FAMILY ASSISTANCE CENTERS ANNUAL REPORT**
 27 **REQUIREMENTS**

28 **SECTION 16B.9.** G.S. 127A-64(b) reads as rewritten:

29 "(b) The Department of Public Safety shall report annually no later than September 1
 30 to the Chairs of the House of Representatives and Senate Appropriations Subcommittees
 31 Committees on Justice and Public Safety and to the House of Representatives Committee on
 32 Homeland Security, Military, and Veterans Affairs on the activities of the National Guard
 33 Family Assistance Centers. Centers during the previous fiscal year. This report shall include
 34 information on services provided as well as on the number and type of members of the active or
 35 reserve components of the Armed Forces of the United States, veterans, and family members
 36 served."
 37

38 **SUBPART XVI-C. DIVISION OF ADULT CORRECTION**

39
 40 **REIMBURSE COUNTIES FOR HOUSING AND EXTRAORDINARY MEDICAL**
 41 **COSTS FOR INMATES, PAROLEES, AND POST-RELEASE SUPERVISEES**
 42 **AWAITING TRANSFER TO STATE PRISON SYSTEM**

43 **SECTION 16C.1.** Notwithstanding G.S. 143C-6-9, the Department of Public
 44 Safety may use funds available to the Department for the 2015-2017 fiscal biennium to pay the
 45 sum of forty dollars (\$40.00) per day as reimbursement to counties for the cost of housing
 46 convicted inmates, parolees, and post-release supervisees awaiting transfer to the State prison
 47 system, as provided in G.S. 148-29. The Department shall report annually by February 1 of
 48 each year to the chairs of the Joint Legislative Oversight Committee on Justice and Public
 49 Safety and the chairs of the House of Representatives and Senate Appropriations Committees
 50 on Justice and Public Safety on the expenditure of funds to reimburse counties for prisoners
 51 awaiting transfer.

CENTER FOR COMMUNITY TRANSITIONS/CONTRACT AND REPORT

SECTION 16C.2. The Department of Public Safety may continue to contract with The Center for Community Transitions, Inc., a nonprofit corporation, for the purchase of prison beds for minimum security female inmates during the 2015-2017 fiscal biennium. The Center for Community Transitions, Inc., shall report by February 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Committees on Justice and Public Safety on the annual cost per inmate and the average daily inmate population compared to bed capacity using the same methodology as that used by the Department of Public Safety.

USE OF CLOSED FACILITIES

SECTION 16C.3. In conjunction with the closing of prison facilities, youth detention centers, and youth development centers, the Department of Public Safety shall consult with the county or municipality in which the facility is located, with the elected State and local officials, and with State and federal agencies about the possibility of converting that facility to other use. The Department may also consult with any private for-profit or nonprofit firm about the possibility of converting the facility to other use. In developing a proposal for future use of each facility, the Department shall give priority to converting the facility to other criminal justice use. Consistent with existing law and the future needs of the Department of Public Safety, the State may provide for the transfer or the lease of any of these facilities to counties, municipalities, State agencies, federal agencies, or private firms wishing to convert them to other use. G.S. 146-29.1(f) through (g) shall not apply to a transfer made pursuant to this section. The Department of Public Safety may also consider converting some of the facilities recommended for closing from one security custody level to another, where that conversion would be cost-effective. A prison unit under lease to a county pursuant to the provisions of this section for use as a jail is exempt for the period of the lease from any of the minimum standards adopted by the Secretary of Health and Human Services pursuant to G.S. 153A-221 for the housing of adult prisoners that would subject the unit to greater standards than those required of a unit of the State prison system.

MEDICAL COSTS FOR INMATES AND JUVENILE OFFENDERS

SECTION 16C.4. Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 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

1 available, hospitals with available capacity or other health care facilities in a region to
2 accomplish that goal. The Department shall make reasonable efforts to equitably distribute
3 inmates and juvenile offenders among all hospitals or other appropriate health care facilities.

4 (c) The Department of Public Safety shall report quarterly to the Joint Legislative
5 Oversight Committee on Justice and Public Safety and the chairs of the House of
6 Representative and Senate Appropriations Committees on Justice and Public Safety on:

7 (1) The percentage of the total inmates and juvenile offenders requiring
8 hospitalization or hospital services who receive that treatment at each
9 hospital.

10 (2) The volume of services provided by community medical providers that can
11 be scheduled in advance and, of that volume, the percentage of those
12 services that are provided by contracted providers.

13 (3) The volume of services provided by community medical providers that
14 cannot be scheduled in advance and, of that volume, the percentage of those
15 services that are provided by contracted providers.

16 (4) The volume of services provided by community medical providers that are
17 emergent cases requiring hospital admissions and emergent cases not
18 requiring hospital admissions.

19 (5) The volume of inpatient medical services provided to Medicaid-eligible
20 inmates and juvenile offenders, the cost of treatment, and the estimated
21 savings of paying the nonfederal portion of Medicaid for the services.

22 (6) The hospital utilization, including the amount paid to individual hospitals,
23 the number of inmates and juvenile offenders served, and the number of
24 claims."

25 26 **STATEWIDE MISDEMEANANT CONFINEMENT FUND/MONTHLY AND ANNUAL** 27 **REPORTS**

28 **SECTION 16C.6.(a)** The North Carolina Sheriffs' Association shall report monthly
29 by the 15th day of each month to the Office of State Budget and Management and the Fiscal
30 Research Division on the Statewide Misdemeanant Confinement Program. Each monthly report
31 shall include the following:

32 (1) The daily population, delineated by misdemeanor or DWI monthly housing.

33 (2) The cost of housing prisoners under the Program.

34 (3) The cost of transporting prisoners under the Program.

35 (4) Personnel costs.

36 (5) Inmate medical care costs.

37 (6) The number of counties that volunteer to house inmates under the Program.

38 (7) The administrative costs paid to the Sheriffs' Association and to the
39 Department of Public Safety.

40 **SECTION 16C.6.(b)** The North Carolina Sheriffs' Association shall report by
41 October 1 of each year to the Chairs of the House of Representatives and Senate
42 Appropriations Committees on Justice and Public Safety and the Joint Legislative Oversight
43 Committee on Justice and Public Safety on the Statewide Misdemeanant Confinement
44 Program. The annual report shall include the following with respect to the prior fiscal year:

45 (1) Revenue collected by the Statewide Misdemeanant Confinement Program.

46 (2) The cost of housing prisoners by county under the Program.

47 (3) The cost of transporting prisoners by county under the Program.

48 (4) Personnel costs by county.

49 (5) Inmate medical care costs by county.

50 (6) The number of counties that volunteer to house inmates under the Program.

- 1 (7) The administrative costs paid to the Sheriffs' Association and to the
2 Department of Public Safety.
3

4 **INMATE CONSTRUCTION PROGRAM**

5 **SECTION 16C.7.** Notwithstanding G.S. 66-58 or any other provision of law,
6 during the 2015-2017 fiscal biennium, the State Construction Office may, wherever feasible,
7 utilize inmates in the custody of the Division of Adult Correction of the Department of Public
8 Safety through the Inmate Construction Program for repair and renovation projects on
9 State-owned facilities, with priority given to Department of Public Safety construction projects.
10

11 **MAINTENANCE OF PRISONS**

12 **SECTION 16C.8.** The Department of Public Safety shall not expand private
13 maintenance contracts to additional prison facilities or continue existing private contracts for
14 prison maintenance unless authorized by the General Assembly. If the Department determines
15 that expanding private maintenance contracts to additional prison facilities or continuing
16 existing contracts is necessary, then it shall submit its request to the General Assembly by May
17 1, 2016, stating (i) the ways in which the State can realize savings by doing so and (ii) that
18 safety can be maintained at the facilities where those contracts are expanded or continued.
19

20 **REPORT ON CONTRACTS FOR HOUSING STATE PRISONERS/REPEAL** 21 **AUTHORIZATION FOR LEASE-PURCHASE OF PRISON FACILITIES FROM** 22 **PRIVATE FIRMS**

23 **SECTION 16C.10.(a)** G.S. 148-37(i) reads as rewritten:

24 "(i) The Division of Adult Correction of the Department of Public Safety shall make a
25 written report no later than March 1 of every ~~odd-numbered~~-year, beginning in 1997, on the
26 substance of all outstanding contracts for the housing of State prisoners entered into under the
27 authority of this section. The report shall be submitted to ~~the Council of State, the Department~~
28 ~~of Administration, the Joint Legislative Commission on Governmental Operations, and the~~
29 ~~Joint Legislative Oversight Committee on Justice and Public Safety. In addition to the report,~~
30 ~~the Division of Adult Correction of the Department of Public Safety shall provide information~~
31 ~~on contracts for the housing of State prisoners as requested by these groups."~~

32 **SECTION 16C.10.(b)** G.S. 148-37.2 is repealed.
33

34 **ANNUAL REPORT ON SAFEKEEPERS**

35 **SECTION 16C.11.** Article 13 of Chapter 143B of the General Statutes is amended
36 by adding a new section to read:

37 **"§ 143B-707.4. Annual report on safekeepers.**

38 The Department of Public Safety shall report by October 1 of each year to the chairs of the
39 House of Representatives and Senate Appropriations Committees on Justice and Public Safety
40 and the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on
41 county prisoners housed in the State prison system pursuant to safekeeping orders under
42 G.S. 162-39. The report shall include:

- 43 (1) The number of safekeepers currently housed by the Department.
44 (2) A list of the facilities where safekeepers are housed and the population of
45 safekeepers by facility.
46 (3) The average length of stay by a safekeeper in one of those facilities.
47 (4) The amount paid by counties for housing and extraordinary medical care of
48 safekeepers.
49 (5) A list of the counties in arrears for safekeeper payments owed to the
50 Department at the end of the fiscal year."
51

COLLECTION OF DELINQUENT SAFEKEEPER REIMBURSEMENTS

SECTION 16C.12. G.S. 148-10.4 is amended by adding a new subsection to read:

"(f) Upon notification from the Division of Adult Correction that an amount owed by a county for safekeeper reimbursements authorized under G.S. 162-39 is more than 120 days overdue, the Sheriffs' Association shall withhold funds from any reimbursements due to a county under this section and transmit those funds to the Division until that overdue safekeeper reimbursement is satisfied."

PRISON BEHAVIORAL HEALTH POSITIONS

SECTION 16C.13. Notwithstanding any other provision of law, the Section of Prisons of the Division of Adult Correction may post, advertise, accept applications for, and interview for positions established or authorized by this act related to behavioral health treatment prior to the effective date of the establishment of those positions.

EVALUATION REQUIREMENT FOR ELECTRICAL DEVICES

SECTION 16C.13A. G.S. 66-25 reads as rewritten:

"§ 66-25. Acceptable listings as to safety of goods.

(a) All electrical materials, devices, appliances, and equipment shall be evaluated for safety and suitability for intended use. Except as provided in subsection (b) of this section, this evaluation shall be conducted in accordance with nationally recognized standards and shall be conducted by a qualified testing laboratory. The Commissioner of Insurance, through the Engineering Division of the Department of Insurance, shall implement the procedures necessary to approve suitable national standards and to approve suitable qualified testing laboratories. The Commissioner may assign his authority to implement the procedures for specific materials, devices, appliances, or equipment to other agencies or bodies when they would be uniquely qualified to implement those procedures.

In the event that the Commissioner determines that electrical materials, devices, appliances, or equipment in question cannot be adequately evaluated through the use of approved national standards or by approved qualified testing laboratories, the Engineering Division of the Department of Insurance shall specify any alternative evaluations which safety requires.

The Engineering Division of the Department of Insurance shall keep in file, where practical, copies of all approved national standards and resumes of approved qualified testing laboratories.

(b) ~~Electrical devices, appliances, or equipment used by the Division of Adult Correction of the Department of Public Safety may be evaluated for safety and suitability by the Central Engineering Section of the Department of Public Safety. The evaluation shall be conducted in accordance with nationally recognized standards. Electrical devices, appliances, and equipment used by the Division that are not evaluated by the Central Engineering Section as provided by this subsection are subject to~~ institutional kitchens and manufacturing equipment used by Correction Enterprises are exempt from the evaluation requirement of subsection (a) of this section."

PAROLE ELIGIBILITY REPORT

SECTION 16C.14. Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 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

1 determine if the person has served more time in custody than the person would have served if
2 sentenced to the maximum sentence under the provisions of Article 81B of Chapter 15A of the
3 General Statutes. The "maximum sentence", for the purposes of this section, shall be calculated
4 as set forth in subsection (b) of this section.

5 (b) For the purposes of this section, the following rules apply for the calculation of the
6 maximum sentence:

7 (1) The offense upon which the person was convicted shall be classified as the
8 same felony class as the offense would have been classified if committed
9 after the effective date of Article 81B of Chapter 15A of the General
10 Statutes.

11 (2) The minimum sentence shall be the maximum number of months in the
12 presumptive range of minimum durations in Prior Record Level VI of
13 G.S. 15A-1340.17(c) for the felony class determined under subdivision (1)
14 of this subsection. The maximum sentence shall be calculated using
15 G.S. 15A-1340.17(d), (e), or (e1).

16 (3) If a person is serving sentences for two or more offenses that are concurrent
17 in any respect, then the offense with the greater classification shall be used
18 to determine a single maximum sentence for the concurrent offenses. The
19 fact that the person has been convicted of multiple offenses may be
20 considered by the Commission in making its determinations under
21 subsection (a) of this section.

22 (c) The Commission shall reinitiate the parole review process for each offender who
23 has served more time than that person would have under Structured Sentencing as provided by
24 subsections (a) and (b) of this section.

25 (d) The Post-Release Supervision and Parole Commission shall report to the Chairs of
26 the Joint Legislative Oversight Committee on Justice and Public Safety and the Chairs of the
27 House of Representatives and Senate Appropriations Committees on Justice and Public Safety
28 by April 1 of each year. The report shall include the following: the class of the offense for
29 which each parole-eligible inmate was convicted and whether an inmate had multiple criminal
30 convictions. The Commission shall also report on the number of parole-eligible inmates
31 reconsidered in compliance with this section and the number who were actually paroled."

32 33 **INTERSTATE COMPACT FEES TO SUPPORT TRAINING PROGRAMS AND** 34 **EQUIPMENT PURCHASES**

35 **SECTION 16C.16.** Notwithstanding the provisions of G.S. 148-65.7, fees
36 collected for the Interstate Compact Fund during the 2015-2017 fiscal biennium may be used
37 by the Division of Adult Correction of the Department of Public Safety during the 2015-2017
38 fiscal biennium to provide training programs and equipment purchases for the Section of
39 Community Corrections, but only as long as sufficient funds remain available in the Fund to
40 support the mission of the Interstate Compact Program.

41 42 **SUBPART XVI-D. DIVISION OF JUVENILE JUSTICE**

43 44 **LIMIT USE OF COMMUNITY PROGRAM FUNDS**

45 **SECTION 16D.1.(a)** Funds appropriated in this act to the Department of Public
46 Safety for the 2015-2017 fiscal biennium for community program contracts that are not
47 required for or used for community program contracts shall only be used for the following:

48 (1) Other statewide residential programs that provide Level 2 intermediate
49 dispositional alternatives for juveniles.

50 (2) Statewide community programs that provide Level 2 intermediate
51 dispositional alternatives for juveniles.

1 (3) Regional programs that are collaboratives of two or more Juvenile Crime
2 Prevention Councils which provide Level 2 intermediate dispositional
3 alternatives for juveniles.

4 (4) The Juvenile Crime Prevention Council funds to be used for the Level 2
5 intermediate dispositional alternatives for juveniles listed in
6 G.S. 7B-2506(13) through (23).

7 **SECTION 16D.1.(b)** Under no circumstances shall funds appropriated by this act
8 to the Department of Public Safety for the 2015-2017 fiscal biennium for community programs
9 be used for staffing, operations, maintenance, or any other expenses of youth development
10 centers or detention facilities.

11 **SECTION 16D.1.(c)** The Department of Public Safety shall submit an electronic
12 report by October 1, 2015, and a second electronic report by October 1, 2016, on all
13 expenditures made from the miscellaneous contract line in Fund Code 1230 to the chairs of the
14 House of Representatives and Senate Appropriations Committees on Justice and Public Safety
15 and the Fiscal Research Division. The report shall include all of the following: an itemized list
16 of the contracts that have been executed, the amount of each contract, the date the contract was
17 executed, the purpose of the contract, the number of juveniles that will be served and the
18 manner in which they will be served, the amount of money transferred to the Juvenile Crime
19 Prevention Council fund, and an itemized list of grants allocated from the funds transferred to
20 the Juvenile Crime Prevention Council fund.

21 **STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS**

22 **SECTION 16D.2.** Funds appropriated in this act to the Department of Public
23 Safety for the 2015-2016 fiscal year may be used as matching funds for the Juvenile
24 Accountability Incentive Block Grants. If North Carolina receives Juvenile Accountability
25 Incentive Block Grants or a notice of funds to be awarded, the Office of State Budget and
26 Management and the Governor's Crime Commission shall consult with the Department of
27 Public Safety regarding the criteria for awarding federal funds. The Office of State Budget and
28 Management, the Governor's Crime Commission, and the Department of Public Safety shall
29 report to the chairs of the House of Representatives and Senate Appropriations Committees on
30 Justice and Public Safety and the Joint Legislative Oversight Committee on Justice and Public
31 Safety prior to allocation of the federal funds. The report shall identify the amount of funds to
32 be received for the 2015-2016 fiscal year and the allocation of funds by program and purpose.

33 **PART XVII. DEPARTMENT OF JUSTICE**

34 **NO HIRING OF SWORN STAFF POSITIONS FOR THE NORTH CAROLINA STATE** 35 **CRIME LABORATORY**

36 **SECTION 17.1.** The Department of Justice shall not hire sworn personnel to fill
37 vacant positions in the North Carolina State Crime Laboratory. Nothing in this section shall be
38 construed to require the termination of sworn personnel, but as vacant positions in the State
39 Crime Laboratory are filled, they shall be filled only with nonsworn personnel. Nothing in this
40 section shall be construed to affect North Carolina State Crime Laboratory personnel who are
41 sworn and employed by the Laboratory as of the effective date of this section and who continue
42 to meet the sworn status retention standards mandated by the North Carolina Criminal Justice
43 Education and Standards Commission.

44 **AMEND DNA DATABASE REPORTING REQUIREMENTS**

45 **SECTION 17.2.** G.S. 15A-266.5(c) reads as rewritten:

46 "(c) The Crime Laboratory shall report annually to ~~the Joint Legislative Commission on~~
47 ~~Governmental Operations and to the Joint Legislative Oversight Committee on Justice and~~

1 Public Safety, on or before ~~February 1,~~September 1, with information for the previous ~~calendar~~
2 fiscal year, which shall include: a summary of the operations and expenditures relating to the
3 DNA Database and DNA Databank; the number of DNA records from arrestees entered; the
4 number of DNA records from arrestees that have been expunged; and the number of DNA
5 arrestee matches or hits that occurred with an unknown sample, and how many of those have
6 led to an arrest and conviction; and how many letters notifying defendants that a record and
7 sample have been expunged, along with the number of days it took to complete the expunction
8 and notification process, from the date of the receipt of the verification form from the State."
9

10 **STUDY COLLECTION OF DNA/ALL FELONY ARRESTS**

11 **SECTION 17.3.** The Joint Legislative Oversight Committee on Justice and Public
12 Safety shall study extending the collection of DNA samples to persons arrested for any felony
13 and shall report its findings and recommendations to the 2016 Regular Session of the 2015
14 General Assembly. The report shall include all of the following:

- 15 (1) A recommended time line for implementing a requirement that DNA
16 samples be collected for persons arrested for committing any felony.
- 17 (2) An estimate of initial nonrecurring costs and recurring operating costs
18 required of implementing such a requirement.
- 19 (3) Other costs and benefits of implementing such a requirement.
- 20 (4) An estimate of capital costs to the State of implementing such a requirement.
- 21 (5) Any other information that the Committee deems relevant.

22 **DEPARTMENT OF JUSTICE POSITIONS**

23 **SECTION 17.4.** Notwithstanding any other provision of law, the Department of
24 Justice may post, advertise, accept applications for, and interview for positions established or
25 authorized by this act in the Department of Justice prior to the effective date of the
26 establishment of those positions.
27

28 **PRIVATE LABS MUST COMPLY WITH CODIS**

29 **SECTION 17.6.(a)** Article 13 of Chapter 15A of the General Statutes is amended
30 by adding a new section to read:

31 **"§ 15A-270.2. Obtaining DNA analyses from entities other than the State Crime**
32 **Laboratory; use of local DNA databases prohibited.**

33 (a) Private Laboratories Shall Comply With CODIS Requirements. – A local law
34 enforcement agency shall not obtain DNA analysis from an entity other than the State Crime
35 Laboratory unless that entity meets the standards applicable to vendor laboratories as set forth
36 in the Federal Bureau of Investigation's Quality Assurance Standards for Forensic DNA Testing
37 and Databasing Laboratories. The State Crime Laboratory shall maintain a list of laboratories
38 that meet those standards and shall make the list available on its Web site.

39 (b) Private DNA Databases Prohibited. – A local law enforcement agency shall not
40 access or create any DNA database other than those that participate in the CODIS system."
41

42 **SECTION 17.6.(b)** This section becomes effective October 1, 2015.
43

44 **PART XVIII. JUDICIAL DEPARTMENT**

45 **SUBPART XVIII-A. ADMINISTRATIVE OFFICE OF THE COURTS**

46 **AOC ANNUAL REPORT**

47 **SECTION 18A.1.** G.S. 7A-343 reads as rewritten:

48 **"§ 7A-343. Duties of Director.**
49
50

1 The Director is the Administrative Officer of the Courts, and the Director's duties include
2 all of the following:

3 ...

- 4 (8) Prepare and submit an annual report on the work of the Judicial Department
5 to the Chief Justice, and transmit a copy by March 15 of each year to the
6 Chairs of the House of Representatives and Senate Appropriations
7 ~~Subcommittee Committees~~ on Justice and Public Safety and the Senate
8 ~~Appropriations Committee on Justice and Public Safety~~ and to the Chairs of
9 the Joint Legislative Oversight Committee on Justice and Public Safety.

10"

11 ANNUAL REPORT ON CRIMINAL COURT COST WAIVERS

12 **SECTION 18A.3.(a)** Article 29 of Chapter 7A of the General Statutes is amended
13 by adding a new section to read:

14 **"§ 7A-350. Annual report on criminal court cost waivers.**

15 The Administrative Office of the Courts shall maintain records of all cases in which a judge
16 makes a finding of just cause to grant a waiver of criminal court costs under G.S. 7A-304(a)
17 and shall report on those waivers to the chairs of the House of Representatives and Senate
18 Appropriations Committees on Justice and Public Safety and the chairs of the Joint Legislative
19 Oversight Committee on Justice and Public Safety by February 1 of each year. The report shall
20 aggregate the waivers by the district in which the waiver or waivers were granted and by the
21 name of each judge granting a waiver or waivers."

22 **SECTION 18A.3.(b)** The Administrative Office of the Courts shall make the
23 necessary modifications to its information systems to maintain the records required under
24 G.S. 7A-350, as enacted by subsection (a) of this section.

25 GRANT FUNDS

26 **SECTION 18A.4.** Notwithstanding G.S. 143C-6-9, the Administrative Office of
27 the Courts may use up to the sum of one million five hundred thousand dollars (\$1,500,000)
28 during the 2015-2016 fiscal year from funds available to the Department to provide the State
29 match needed in order to receive grant funds. Prior to using funds for this purpose, the
30 Department shall report to the chairs of the House of Representatives and Senate
31 Appropriations Committees on Justice and Public Safety on the grants to be matched using
32 these funds.

33 COLLECTION OF WORTHLESS CHECK FUNDS

34 **SECTION 18A.5.(a)** Notwithstanding the provisions of G.S. 7A-308(c), the
35 Judicial Department may use any balance remaining in the Collection of Worthless Checks
36 Fund on June 30, 2015, for the purchase or repair of office or information technology
37 equipment during the 2015-2016 fiscal year. Prior to using any funds under this section, the
38 Judicial Department shall report to the chairs of the House of Representatives and Senate
39 Appropriations Committees on Justice and Public Safety and the Office of State Budget and
40 Management on the equipment to be purchased or repaired and the reasons for the purchases.

41 **SECTION 18A.5.(b)** This section becomes effective June 30, 2015.

42 REIMBURSEMENT FOR USE OF PERSONAL VEHICLES

43 **SECTION 18A.6.** Notwithstanding the provisions of G.S. 138-6(a)(1), the Judicial
44 Department, during the 2015-2017 fiscal biennium, may elect to establish a per-mile
45 reimbursement rate for transportation by privately owned vehicles at a rate less than the
46 business standard mileage rate set by the Internal Revenue Service.

1 CONFERENCE OF DISTRICT ATTORNEYS GRANT FUNDS/AUTHORIZE
2 DISTRICT ATTORNEYS TO USE CERTAIN GRANT FUNDS TO OBTAIN
3 TOXICOLOGY ANALYSIS FROM PROVIDERS OF TOXICOLOGY ANALYSES
4 OTHER THAN HOSPITALS

5 SECTION 18A.7. Section 18B.4 of S.L. 2013-360 reads as rewritten:

6 "SECTION 18B.4. Of the funds appropriated in this act to the Judicial Department, the
7 sum of five hundred thousand dollars (\$500,000) in the 2013-2014 fiscal year shall be allocated
8 to the Conference of District Attorneys and shall be used to establish a grant fund to provide
9 district attorneys across the State with the resources to obtain toxicology analysis from local
10 ~~hospitals~~ hospitals, or from other providers of toxicology analyses, on persons charged with
11 driving while impaired whose conduct did not result in serious injury or death to others. The
12 Conference of District Attorneys shall report to the Chairs of the Joint Legislative Oversight
13 Committee on Justice and Public Safety ~~by October 1, 2014,~~ on the expenditure of these
14 ~~funds.~~ funds by October 1 of each year until all of the grant funds have been expended."

15
16 DISTRICT ATTORNEY LEGAL ASSISTANTS

17 SECTION 18A.8.(a) G.S. 7A-347 reads as rewritten:

18 "~~§ 7A-347. Assistants for administrative and victim and witness services.~~ District attorney
19 legal assistants.

20 ~~Assistant for administrative and victim and witness services~~ District attorney legal assistant
21 positions are established under the district attorneys' offices. Each prosecutorial district is
22 allocated at least one ~~assistant for administrative and victim and witness services~~ district
23 attorney legal assistant to be employed by the district attorney. The Administrative Office of
24 the Courts shall allocate additional assistants to prosecutorial districts on the basis of need and
25 within available appropriations. Each district attorney may also use any volunteer or other
26 personnel to assist the assistant. The assistant is responsible for coordinating efforts of the
27 law-enforcement and judicial systems to assure that each victim and witness is provided fair
28 treatment under Article 45 of Chapter 15A, Fair Treatment for Victims and Witnesses and shall
29 also provide administrative and legal support to the district attorney's office."

30 SECTION 18A.8.(b) G.S. 7A-348 reads as rewritten:

31 "~~§ 7A-348. Training and supervision of assistants for administrative and victim and~~
32 ~~witness services.~~ district attorney legal assistants.

33 Pursuant to the provisions of G.S. 7A-413, the Conference of District Attorneys shall:

- 34 (1) Assist in establishing uniform statewide training for ~~assistants for~~
35 ~~administrative and victim and witness services;~~ district attorney legal
36 assistants; and
37 (2) Assist in the implementation and supervision of this program."

38 SECTION 18A.8.(c) G.S. 15A-826 reads as rewritten:

39 "~~§ 15A-826. Assistants for administrative and victim and witness services.~~ District
40 attorney legal assistants.

41 In addition to providing administrative and legal support to the district attorney's office,
42 ~~assistants for administrative and victim and witness services~~ district attorney legal assistants are
43 responsible for coordinating efforts within the law-enforcement and judicial systems to assure
44 that each victim and witness is treated in accordance with this Article."

45
46 REPORT ON DISMISSALS DUE TO DELAY IN ANALYSIS OF EVIDENCE

47 SECTION 18A.9. Whenever a criminal case is dismissed as a direct result of a

48 delay in the analysis of evidence by the State Crime Laboratory, the district attorney for the
49 district in which the case was dismissed shall report that dismissal and the facts surrounding it
50 to the Conference of District Attorneys. The Conference of District Attorneys shall compile any
51 such reports of dismissals and shall report them quarterly starting October 30, 2015, to the

1 chairs of the House of Representatives and Senate Appropriations Committees on Justice and
 2 Public Safety and to the chairs of the Joint Legislative Oversight Committee on Justice and
 3 Public Safety.

4
 5 **ALLOCATION OF ASSISTANT DISTRICT ATTORNEYS**

6 **SECTION 18A.10.(a)** G.S. 7A-60 reads as rewritten:

7 "**§ 7A-60. District attorneys and prosecutorial districts.**

8 ...

9 (a1) The counties of the State are organized into prosecutorial districts, and each district
 10 has the counties ~~and the number of full time assistant district attorneys~~ set forth in the
 11 following table:

| 12 | | | No. of Full-Time |
|----|---------------|-----------------------------|------------------|
| 13 | Prosecutorial | | Asst. District |
| 14 | District | Counties | Attorneys |
| 15 | 1 | Camden, Chowan, Currituck, | 11 |
| 16 | | Dare, Gates, Pasquotank, | |
| 17 | | Perquimans | |
| 18 | 2 | Beaufort, Hyde, Martin, | 8 |
| 19 | | Tyrrell, Washington | |
| 20 | 3A | Pitt | 11 |
| 21 | 3B | Carteret, Craven, Pamlico | 12 |
| 22 | 4 | Duplin, Jones, Onslow, | 18 |
| 23 | | Sampson | |
| 24 | 5 | New Hanover, Pender | 18 |
| 25 | 6 | Bertie, Halifax, Hertford, | 10 |
| 26 | | Northampton | |
| 27 | 7 | Edgecombe, Nash, Wilson | 18 |
| 28 | 8 | Greene, Lenoir, Wayne | 14 |
| 29 | 9 | Franklin, Granville, | 10 |
| 30 | | Vance, Warren | |
| 31 | 9A | Person, Caswell | 6 |
| 32 | 10 | Wake | 41 |
| 33 | 11A | Harnett, Lee | 9 |
| 34 | 11B | Johnston | 10 |
| 35 | 12 | Cumberland | 23 |
| 36 | 13 | Bladen, Brunswick, Columbus | 13 |
| 37 | 14 | Durham | 18 |
| 38 | 15A | Alamance | 11 |
| 39 | 15B | Orange, Chatham | 10 |
| 40 | 16A | Scotland, Hoke | 7 |
| 41 | 16B | Robeson | 12 |
| 42 | 16C | Anson, Richmond | 6 |
| 43 | 17A | Rockingham | 7 |
| 44 | 17B | Stokes, Surry | 8 |
| 45 | 18 | Guilford | 32 |
| 46 | 19A | Cabarrus | 9 |
| 47 | 19B | Montgomery, Randolph | 9 |
| 48 | 19C | Rowan | 8 |
| 49 | 19D | Moore | 5 |
| 50 | 20A | | 5 |
| 51 | | Stanly | |

| | | | |
|----|-----|-------------------------------|----|
| 1 | 20B | Union | 10 |
| 2 | 21 | Forsyth | 25 |
| 3 | 22A | Alexander, Iredell | 11 |
| 4 | 22B | Davidson, Davie | 11 |
| 5 | 23 | Alleghany, Ashe, Wilkes, | 8 |
| 6 | | Yadkin | |
| 7 | 24 | Avery, Madison, Mitchell, | 7 |
| 8 | | Watauga, Yancey | |
| 9 | 25 | Burke, Caldwell, Catawba | 18 |
| 10 | 26 | Mecklenburg | 58 |
| 11 | 27A | Gaston | 14 |
| 12 | 27B | Cleveland, | 11 |
| 13 | | Lincoln | |
| 14 | 28 | Buncombe | 14 |
| 15 | 29A | McDowell, Rutherford | 7 |
| 16 | 29B | Henderson, Polk, Transylvania | 8 |
| 17 | 30 | Cherokee, Clay, Graham, | 10 |
| 18 | | Haywood, Jackson, Macon, | |
| 19 | | Swain. | |

(a2) ~~Upon the convening of each regular session of the General Assembly and its reconvening in the even numbered year, the~~ The Administrative Office of the Courts shall report by March 15 of each year on its recommendations regarding the allocation of assistant district attorneys for the upcoming fiscal biennium and fiscal year to the General Assembly, including any request for additional assistant district attorneys. The report shall include the number of assistant district attorneys that the Administrative Office of the Courts recommends to be ~~has~~ allocated to each prosecutorial district and the workload formula established through the National Center for State Courts on which each recommended allocation is based. Any reports required under this subsection shall be made to ~~the Joint Legislative Commission of Governmental Operations,~~ the House of Representatives and Senate Appropriations ~~Subcommittees~~ Committees on Justice and Public, and the Fiscal Research Division.

...."

SECTION 18A.10.(b) G.S. 7A-63 reads as rewritten:

"§ 7A-63. Assistant district attorneys.

Each district attorney shall be entitled to the number of full-time assistant district attorneys ~~set out in this Subchapter, such number to be developed by the General Assembly~~ allocated to that prosecutorial district by the Administrative Office of the Courts after consulting the workload formula established through the National Center for State Courts, to be appointed by the district attorney, to serve at the district attorney's pleasure. A vacancy in the office of assistant district attorney shall be filled in the same manner as the initial appointment. An assistant district attorney shall take the same oath of office as the district attorney, and shall perform such duties as may be assigned by the district attorney. The district attorney shall devote full time to the duties of the office and shall not engage in the private practice of law during his or her term."

SECTION 18A.10(c) Article 9 of Chapter 7A of the General Statutes is amended by adding a new section to read:

"§ 7A-69.2. Transfer of vacant positions.

Any assistant district attorney positions within a prosecutorial district that become vacant shall be transferred by the Administrative Office of the Courts to prosecutorial districts that are determined to be understaffed under the workload formula established through the National Center for State Courts if the Administrative Office of the Courts makes a determination that the district in which the vacancy occurred is overstaffed under that workload formula."

1 **SECTION 18A.10.(d)** The Administrative Office of the Courts, in conjunction
2 with the National Center for State Courts and the Conference of District Attorneys, shall revisit
3 the workload formula used to determine the allocation of assistant district attorneys under
4 G.S. 7A-60 and determine whether any adjustments should be made to the formula. The
5 Administrative Office of the Courts shall report by May 1, 2016, to the chairs of the Joint
6 Legislative Committee on Justice and Public Safety and the chairs of House of Representatives
7 and Senate Appropriations Committees on Justice and Public Safety on the conclusions reached
8 about the workload formula and any recommendations for adjustments.
9

10 **AMEND COURT COSTS**

11 **SECTION 18A.11.** G.S. 7A-304(a) reads as rewritten:

12 "(a) In every criminal case in the superior or district court, wherein the defendant is
13 convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the
14 prosecuting witness, the following costs shall be assessed and collected. No costs may be
15 assessed when a case is dismissed. Only upon entry of a written order, supported by findings of
16 fact and conclusions of law, determining that there is just cause, the court may (i) waive costs
17 assessed under this section or (ii) waive or reduce costs assessed under subdivision (7), (8),
18 (8a), (11), (12), or (13) of this section.

19 ...

20 ~~(2b) For the maintenance of misdemeanors in county jails, the sum of eighteen~~
21 ~~dollars (\$18.00) in the district court to be remitted to the Statewide~~
22 ~~Misdemeanor Confinement Fund in the Division of Adult Correction of the~~
23 ~~Department of Public Safety.~~

24 ...

25 (4) For support of the General Court of Justice, the sum of ~~one hundred~~
26 ~~twenty nine dollars and fifty cents (\$129.50)~~ one hundred forty-seven dollars
27 and fifty cents (\$147.50) in the district court, including cases before a
28 magistrate, and the sum of one hundred fifty-four dollars and fifty cents
29 (\$154.50) in the superior court, to be remitted to the State Treasurer. For a
30 person convicted of a felony in superior court who has made a first
31 appearance in district court, both the district court and superior court fees
32 shall be assessed. The State Treasurer shall remit the sum of one dollar and
33 fifty cents (\$1.50) of each fee collected under this subdivision to the North
34 Carolina State Bar for the provision of services described in G.S. 7A-474.4,
35 and ninety-five cents (\$.95) of each fee collected under this subdivision to
36 the North Carolina State Bar for the provision of services described in
37 G.S. 7A-474.19.

38 ...

39 ~~(4b) To provide for contractual services to reduce county jail populations, For~~
40 additional support of the General Court of Justice, the sum of fifty dollars
41 (\$50.00) for all offenses arising under Chapter 20 of the General Statutes
42 and resulting in a conviction of an improper equipment offense, to be
43 remitted to the ~~Statewide Misdemeanor Confinement Fund in the Division of~~
44 ~~Adult Correction of the Department of Public Safety.~~ State Treasurer.

45 "

46 **FAMILY COURT PROGRAMS**

47 **SECTION 18A.13.** The Administrative Office of the Courts shall provide direction
48 and oversight to the existing family court programs in order to ensure that each district with a
49 family court program is utilizing best practices and is working effectively and efficiently in the
50 disposition of domestic and juvenile cases. The Administrative Office of the Courts shall report
51

1 on its efforts in this regard and the results of those efforts to the chairs of the House of
2 Representatives and Senate Appropriations Committee on Justice and Public Safety and the
3 Joint Legislative Oversight Committee on Justice and Public Safety by March 1 of each year.
4

5 **SPECIALTY COURTS/USE CLERK OF COURT PERSONNEL AND RESOURCES**

6 **SECTION 18A.14.** Article 14 of Chapter 7A of the General Statutes is amended by
7 adding a new section to read:

8 **"§ 7A-146.1. Specialty sessions of court; use of clerk of court personnel and resources.**

9 Upon the request of a clerk of court or district attorney, or upon the judge's own initiative, a
10 chief district court judge may, pursuant to the judge's authority under G.S. 7A-146(7) to
11 arrange sessions for the trial of specialized cases, authorize the establishment in the district
12 court district of the holding of sessions of court in which related specialized cases or matters
13 are adjudicated, including the holding of family court, drug treatment court, veterans' court,
14 DWI court, mental health court, or any other innovative use of a session of court. With the
15 consent of the clerk of superior court, the court may make use of the personnel and resources of
16 the clerk's office to administer these specialty sessions. The Administrative Office of the Courts
17 shall provide direction and oversight to any such specialty session of district court in order to
18 ensure that each district is utilizing best practices and is working effectively and efficiently in
19 the disposition of such specialized cases and consistent with the provisions of G.S. 7A-272."
20

21 **INNOCENCE INQUIRY COMMISSION**

22 **SECTION 18A.16.** G.S. 15A-1462 reads as rewritten:

23 **"§ 15A-1462. Commission established.**

24 (a) There is established the North Carolina Innocence Inquiry Commission. The North
25 Carolina Innocence Inquiry Commission shall be an independent commission under the
26 ~~Judicial Department~~ Administrative Office of the Courts for administrative purposes.

27 (b) The Administrative Office of the Courts shall provide administrative support to the
28 Commission as needed. The Director of the Administrative Office of the Courts shall not
29 reduce or modify the budget of the Commission or use funds appropriated to the Commission
30 without the approval of the Commission. The Administrative Office of the Courts shall conduct
31 an annual audit of the Commission."
32

33 **TRANSFER OFFICE OF INDIGENT DEFENSE SERVICES TO THE** 34 **ADMINISTRATIVE OFFICE OF THE COURTS**

35 **SECTION 18A.17.** G.S. 7A-498.2 reads as rewritten:

36 **"§ 7A-498.2. Establishment of Office of Indigent Defense Services.**

37 (a) The Office of Indigent Defense Services, which is administered by the Director of
38 Indigent Defense Services and includes the Commission on Indigent Defense Services and the
39 Sentencing Services Program established in Article 61 of this Chapter, is created within the
40 ~~Judicial Department~~ Administrative Office of the Courts. As used in this Article, "Office"
41 means the Office of Indigent Defense Services, "Director" means the Director of Indigent
42 Defense Services, and "Commission" means the Commission on Indigent Defense Services.

43 (b) The Office of Indigent Defense Services shall exercise its prescribed powers
44 independently of the head of the Administrative Office of the Courts. The Office may enter into
45 contracts, own property, and accept funds, grants, and gifts from any public or private source to
46 pay expenses incident to implementing its purposes.

47 (c) The Director of the Administrative Office of the Courts shall provide general
48 administrative support to the Office of Indigent Defense Services. The term "general
49 administrative support" includes purchasing, payroll, and similar administrative services.

50 (d) The budget of the Office of Indigent Defense Services shall be a part of the ~~Judicial~~
51 ~~Department's budget.~~ budget of the Administrative Office of the Courts. The Commission on

1 Indigent Defense Services shall consult with the Director of the Administrative Office of the
2 Courts, who shall assist the Commission in preparing and presenting to the General Assembly
3 the Office's budget, but the Commission shall have the final authority with respect to
4 preparation of the Office's budget and with respect to representation of matters pertaining to the
5 Office before the General Assembly. The Administrative Office of the Courts shall conduct an
6 annual audit of the budget of the Office of Indigent Defense Services.

7 (e) The Director of the Administrative Office of the Courts shall not ~~reduce or~~ modify
8 the budget of the Office of Indigent Defense Services or use funds appropriated to the Office
9 without the approval of the Commission."

10
11 **STUDY FUTURE OF INDIGENT DEFENSE SERVICES COMMISSION AND**
12 **INNOCENCE INQUIRY COMMISSION**

13 **SECTION 18A.18.** The Joint Legislative Oversight Committee on Justice and
14 Public Safety shall study:

- 15 (1) The Office of Indigent Defense Services and determine whether changes
16 should be made to the ways in which appropriated funds are used to provide
17 legal assistance and representation to indigent persons.
18 (2) The North Carolina Innocence Inquiry Commission and determine whether
19 changes should be made to the way in which the Commission investigates
20 and determines credible claims of factual innocence made by criminal
21 defendants.

22 The Joint Legislative Oversight Committee on Justice and Public Safety shall report
23 its findings and recommendations, including any proposed legislation, to the 2015 General
24 Assembly when it reconvenes in 2016.

25
26 **ABOLISH THREE SPECIAL SUPERIOR COURT JUDGESHIPS**

27 **SECTION 18A.19.** G.S. 7A-45.1 reads as rewritten:

28 "**§ 7A-45.1. Special judges.**

29 ...

30 (a8) Notwithstanding any other provision of this section, the four special superior court
31 judgeships held as of April 1, 2014, by judges whose terms expire on April 29, 2015, October
32 20, 2015, and December 31, 2017, and the two special superior court judgeships held as of
33 April 1, 2015, by judges whose terms expire January 26, 2016, are abolished when any of the
34 following first occurs:

- 35 (1) Retirement of the incumbent judge.
36 (2) Resignation of the incumbent judge.
37 (3) Removal from office of the incumbent judge.
38 (4) Death of the incumbent judge.
39 (5) Expiration of the term of the incumbent judge.

40 (a9) Effective upon the retirement, resignation, removal from office, death, or expiration
41 of the term of the special superior court judge held as of April 1, 2014, by the judge whose term
42 expires on April 29, 2015, a new special superior court judgeship shall be created and filled
43 through the procedure for nomination and confirmation provided for in subsection (a10) of this
44 section. ~~Effective upon the retirement, resignation, removal from office, death, or expiration of~~
45 ~~the term of the special superior court judge held as of April 1, 2014, by the judge whose term~~
46 ~~expires on October 20, 2015, a new special superior court judgeship shall be created and filled~~
47 ~~through the procedure for nomination and confirmation provided for in subsection (a10) of this~~
48 ~~section.~~

49 Prior to submitting a nominee for the ~~judgeships~~ judgeship created under this subsection to
50 the General Assembly for confirmation, the Governor shall consult with the Chief Justice to
51 ensure that the ~~persons~~ person nominated to fill ~~these two judgeships~~ have this judgeship has

1 the requisite expertise and experience to be designated by the Chief Justice as a business court
2 ~~judges-judge~~ under G.S. 7A-45.3, and the Chief Justice is requested to designate ~~those two~~
3 ~~judges as business court judges.~~this judge as a business court judge.

4 ...

5 (a11) The Chief Justice is requested, pursuant to the authority under G.S. 7A-45.3 to
6 designate business court judges, to maintain at least five business court judgeships from among
7 the special superior court judgeships authorized under this section.

8"

10 **COMPENSATION OF COURT REPORTERS**

11 **SECTION 18A.20.** The Administrative Office of the Courts shall set the limits on
12 compensation and allowances of court reporters provided for in G.S. 7A-95(e) and
13 G.S. 7A-198(f) during the 2015-2017 fiscal biennium so that (i) the Administrative Office of
14 the Courts pays no more than fifty percent (50%) of the per-transcript-page rate paid by the
15 Administrative Office of the Courts during the 2011-2013 fiscal biennium and (ii) the Office of
16 Indigent Defense Services pays no more than fifty percent (50%) of the per-transcript-page rate
17 paid by the Office of Indigent Defense Services during the 2011-2013 fiscal biennium.

19 **E-COURTS INFORMATION TECHNOLOGY INITIATIVE/STRATEGIC 20 PLAN/ADVISORY COMMITTEE**

21 **SECTION 18A.21.(a)** The Administrative Office of the Courts shall establish a
22 strategic plan for the design and implementation of its e-Courts information technology
23 initiative by February 1, 2016. The plan shall:

- 24 (1) Clearly articulate the requirements for the e-Courts system, including
25 well-defined milestones, costs parameters, and performance measures.
- 26 (2) Prioritize the funding needs for implementation of the various elements of
27 the system, after consultation with the e-Courts advisory committee
28 established by subsection (c) of this section.
- 29 (3) Identify any potential issues that may arise in the development of the system
30 and plans for mitigating those issues.
- 31 (4) Address the potential for incorporating any currently existing resources into
32 the e-Courts system.

33 **SECTION 18A.21.(b)** The Administrative Office of the Courts shall report
34 quarterly beginning November 1, 2015, to the Joint Legislative Oversight Committee on Justice
35 and Public Safety and the Joint Legislative Oversight Committee on Information Technology
36 on the development, implementation, and specific costs of the strategic plan required by
37 subsection (a) of this section and on any changes in the projected costs for implementing the
38 e-Courts system or the schedule for implementation.

39 **SECTION 18A.21.(c)** The Administrative Office of the Courts shall establish an
40 e-Courts advisory committee consisting of clerks of superior court, judges, district attorneys,
41 public defenders, and representatives of the State Bar in order to ensure that, in the
42 development and implementation of the strategic plan required by subsection (a) of this section,
43 it has the input and advice of those stakeholders in the e-Courts system and the benefit of the
44 various stakeholders' expertise on the information technology needs of the courts. The advisory
45 committee shall be guided by an executive steering committee.

46 **SECTION 18A.21.(d)** Upon completion of the strategic plan required by
47 subsection (a) of this section, the Administrative Office of the Courts shall issue a Request For
48 Information (RFI) for a contractor to provide the e-Courts system as outlined in the strategic
49 plan. The Administrative Office of the Courts shall evaluate the responses to the RFI before
50 issuing a Request for Proposals (RFP) for the e-Courts system.

AMEND CHILD CUSTODY LAWS

SECTION 18A.22.(a) Article 1 of Chapter 50 of the General Statutes is amended by adding a new section to read:

"§ 50-13.01. Purposes.

It is the policy of the State of North Carolina to do the following:

- (1) Encourage focused, good-faith, best interest, and child-centered joint parenting agreement development to reduce needless litigation over child custody matters and to promote the best interest of the child.
- (2) Encourage parents to take responsibility for their child by setting the expectation that parenthood will be a significant and ongoing responsibility.
- (3) Encourage programs and court practices that maximize participation of both parents in the child's life and contact with both parents when such is in the child's best interest, regardless of the parents' present marital status, subject to laws regarding abuse, neglect, and dependency.
- (4) Encourage both parents to share equitably in the rights and responsibilities of raising their child, even after dissolution of marriage or unwed relationship.
- (5) Encourage each parent to establish and maintain a healthy relationship with the other parent to promote the best interest and welfare of the child."

SECTION 18A.22.(b) G.S. 50-13.2 reads as rewritten:

"§ 50-13.2. Who entitled to custody; terms of custody; visitation rights of grandparents; taking child out of State; consideration of parent's military service.

(a) An order for custody of a minor child entered pursuant to this section shall award the custody of such child to such person, agency, organization or institution as will best promote the interest and welfare of the child. In making the determination, the court shall consider all relevant ~~factors~~ factors, including all of the following:

- (1) ~~acts~~ Acts of domestic violence between the ~~parties~~, parties.
- (2) ~~the~~ The safety of the ~~child~~, child.
- (3) ~~and the~~ The safety of either party from domestic violence by the other ~~party~~ and ~~shall make findings accordingly~~. party.

An order for custody must include findings of fact ~~which~~ that reflect the consideration of each of these factors and that support the determination of what is in the best interest of the child.

(a1) Between the mother and father, whether natural or adoptive, no presumption shall apply as to who will better promote the interest and welfare of the child. ~~Joint custody to the parents shall be considered upon the request of either parent.~~

(b) An order for custody of a minor child may grant joint custody to the parents, exclusive custody to one person, agency, organization, or institution, or grant custody to two or more persons, agencies, organizations, or institutions. Any order for custody shall include such terms, including visitation, as will best promote the interest and welfare of the child. If the court finds that domestic violence has occurred, the court shall enter such orders that best protect the children and party who were the victims of domestic violence, in accordance with the provisions of G.S. 50B-3(a1)(1), (2), and (3). If a party is absent or relocates with or without the children because of an act of domestic violence, the absence or relocation shall not be a factor that weighs against the party in determining custody or visitation. Absent an order of the court to the contrary, each parent shall have equal access to the records of the minor child involving the health, education, and welfare of the child.

...."

SUBPART XVIII-B. OFFICE OF INDIGENT DEFENSE SERVICES**INDIGENT DEFENSE SERVICES ANNUAL REPORT DATE CHANGE**

1 **SECTION 18B.1.** G.S. 7A-498.9 reads as rewritten:

2 "**§ 7A-498.9. Annual report on Office of Indigent Defense Services.**

3 The Office of Indigent Defense Services shall report to the Chairs of the Joint Legislative
4 Oversight Committee on Justice and Public Safety and to the Chairs of the House of
5 Representatives ~~Subcommittee and Senate Committees~~ on Justice and Public Safety ~~and the~~
6 ~~Senate Appropriations Committee on Justice and Public Safety~~ by ~~February 1~~ March 15 of each
7 year on the following:

- 8 (1) The volume and cost of cases handled in each district by assigned counsel or
9 public defenders;
- 10 (2) Actions taken by the Office to improve the cost-effectiveness and quality of
11 indigent defense services, including the capital case program;
- 12 (3) Plans for changes in rules, standards, or regulations in the upcoming year;
13 and
- 14 (4) Any recommended changes in law or funding procedures that would assist
15 the Office in improving the management of funds expended for indigent
16 defense services, including any recommendations concerning the feasibility
17 and desirability of establishing regional public defender offices."

18 **OFFICE OF INDIGENT DEFENSE SERVICES/STATE MATCH FOR GRANTS**

19 **SECTION 18B.2.** Notwithstanding G.S. 143C-6-9, the Office of Indigent Defense
20 Services may use the sum of up to fifty thousand dollars (\$50,000) during the 2015-2016 fiscal
21 year from funds available to provide the State matching funds needed to receive grant funds.
22 Prior to using funds for this purpose, the Office shall report to the chairs of the House of
23 Representatives and Senate Appropriations Committees on Justice and Public Safety on the
24 grants to be matched using these funds.

25 **REPORTS ON CRIMINAL CASE INFORMATION SYSTEM**

26 **SECTION 18B.3.(a)** Section 18B.10 of S.L. 2013-360, as amended by Section
27 18A.2 of S.L. 2014-100, reads as rewritten:

28 **"SECTION 18B.10.** The Administrative Office of the Courts, in consultation with the
29 Office of Indigent Defense Services, shall use the sum of three hundred fifty thousand dollars
30 (\$350,000) in funds available to the Administrative Office of the Courts for the 2013-2015
31 fiscal biennium and the sum of three hundred fifty thousand dollars (\$350,000) in funds
32 available to the Office of Indigent Defense Services for the 2013-2015 fiscal biennium to
33 develop or acquire and to implement a component of the Department's criminal case
34 information system for use by public defenders no later than ~~February 1, 2015~~ February 1,
35 2016. The Administrative Office of the Courts shall make ~~an interim report~~ quarterly reports on
36 the development and implementation of this ~~system by February 1, 2014,~~ system, including
37 costs, milestones, and performance measures, and a final report on the completed
38 implementation of the system by ~~July 1, 2015,~~ July 1, 2016, to the Chairs of the Joint
39 Legislative Oversight Committee on Justice and Public Safety and to the Chairs of the House of
40 Representatives and Senate Appropriations Subcommittee ~~Committees~~ on Justice and Public
41 Safety ~~and the Senate Appropriations Committee on Justice and Public Safety."~~

42 **SECTION 18B.3.(b)** This section becomes effective June 30, 2015.

43 **STUDY EFFICIENCY OF ESTABLISHING A SYSTEM OF AUTOMATED KIOSKS** 44 **IN LOCAL CONFINEMENT FACILITIES TO ALLOW ATTORNEYS** 45 **REPRESENTING INDIGENT DEFENDANTS TO CONSULT WITH THEIR** 46 **CLIENTS REMOTELY**

47 **SECTION 18B.4.(a)** The Administrative Office of the Courts, in conjunction with
48 the Office of Indigent Defense Services and the North Carolina Sheriffs' Association, shall
49

1 study and determine whether savings can be realized through the establishment of a system of
2 fully automated kiosks in local confinement facilities to allow attorneys representing indigent
3 defendants to consult with their clients remotely. The system would incorporate technology
4 through which meetings between attorneys and their clients cannot be monitored or recorded,
5 would provide for end-to-end message encryption, and would have scheduling software
6 integrated into the system.

7 **SECTION 18B.4.(b)** The Administrative Office of the Courts shall report its
8 findings and recommendations, including recommendations of at least two potential pilot sites
9 for the proposed system, to the chairs of the House of Representatives and Senate
10 Appropriations Committees on Justice and Public Safety and the chairs of the Joint Legislative
11 Oversight Committee on Justice and Public Safety by February 1, 2016.

12 **STUDY FEE SCHEDULES USED BY OFFICE OF INDIGENT DEFENSE SERVICES**

13 **SECTION 18B.5.** The Joint Legislative Oversight Committee on Justice and
14 Public Safety shall study the creation and implementation of fee schedules to be used by the
15 Office of Indigent Defense Services to compensate private assigned counsel representing
16 indigent defendants. The Committee shall include its findings and recommendations in its
17 report to the 2015 General Assembly when it reconvenes in 2016.

18 **PART XIX. DEPARTMENT OF CULTURAL RESOURCES - RESERVED**

19 **PART XX. DEPARTMENT OF INSURANCE**

20 **INSURANCE REGULATORY CHARGE**

21 **SECTION 20.1.** The percentage rate to be used in calculating the insurance
22 regulatory charge under G.S. 58-6-25 is six and one-half percent (6.5%) for the 2016 calendar
23 year.

24 **PART XXI. DEPARTMENT OF THE STATE TREASURER**

25 **UPDATE ORBIT RETIREMENT SYSTEM**

26 **SECTION 21.1.** The Department of State Treasurer, Retirement Systems Division,
27 may use funds from receipts up to eight hundred fifty thousand dollars (\$850,000) for the
28 purpose of upgrading the Online Retirement Benefits through Integrated Technology
29 self-service retirement system and those funds are hereby appropriated for that purpose.

30 **ACHIEVING A BETTER LIFE EXPERIENCE (ABLE) ACT**

31 **SECTION 21.2.(a)** Article 6 of Chapter 147 of the General Statutes is amended by
32 adding a new section to read:

33 **"§ 147-86.5. Achieving a Better Life Experience Trust Fund.**

34 (a) Policy. – The General Assembly of North Carolina hereby finds and declares that
35 encouraging and assisting individuals and families in saving private funds for the purpose of
36 supporting individuals with disabilities to maintain health, independence, and a better quality of
37 life is fully consistent with and furthers the long-established policy of the State to provide tools
38 that strengthen opportunities for personal economic development and long-term financial
39 planning.

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

41 (1) ABLE account. – An account established and owned by an eligible
42 individual and maintained pursuant to this section.

43 (2) Account owner. – The person who enters into an ABLE savings agreement
44 pursuant to the provisions of this section. The account owner must be the
45

- 1 designated beneficiary. A trustee or guardian may be appointed a signatory
2 of an ABLE account to act on behalf of an account owner or a designated
3 beneficiary who is a minor or lacks capacity to enter into an agreement.
- 4 (3) Contracting state. – A state without a qualified ABLE program that has
5 entered into a contract with North Carolina to provide residents of the
6 contracting state access to a qualified ABLE program.
- 7 (4) Designated beneficiary. – The eligible individual who established and owns
8 an ABLE account.
- 9 (5) Disability certification. – With respect to an individual, documentation that
10 satisfies each of the following conditions:
- 11 a. A certification to the satisfaction of the Secretary of the Treasury of
12 the United States by the individual or the parent or guardian of the
13 individual that the individual has a medically determinable physical
14 or mental impairment that (i) results in marked and severe functional
15 limitations and can be expected to result in death or (ii) has lasted or
16 can be expected to last for a continuous period of not less than 12
17 months.
- 18 b. The individual is blind or disabled within the meaning of section
19 1614(a)(2) of the Social Security Act, and the blindness or disability
20 occurred before the individual attained 26 years of age. A copy of the
21 individual's diagnosis, signed by a physician, relating to the
22 individual's relevant impairment or impairments meeting the criteria
23 of section 1861(r)(1) of the Social Security Act.
- 24 (6) Eligible individual. – An individual who, for a taxable year, either (i) is
25 entitled to benefits based on blindness or disability under Title II or XVI of
26 the Social Security Act, 42 U.S.C. § 301 et seq., and the blindness or
27 disability is a preexisting condition that occurred before the date on which
28 the individual attained 26 years of age or (ii) has a disability certification
29 filed with the Secretary of the Treasury of the United States for the taxable
30 year.
- 31 (7) Member of the family. – A brother, sister, stepbrother, or stepsister.
- 32 (8) Qualified disability expense. – An expense related to an eligible individual's
33 blindness or disability that is incurred for the benefit of the eligible
34 individual who is the designated beneficiary.
- 35 (c) Achieving a Better Life Experience (ABLE) Trust Fund. – There is established an
36 ABLE Trust Fund to be administered by the State Treasurer to enable contributors to save
37 funds to meet the costs of the qualified disability expenses of eligible individuals.
- 38 (d) Accounts. – The following provisions apply to an ABLE account:
- 39 (1) An account owner or contributor may establish an account by making an
40 initial contribution to the ABLE Trust Fund, signing an application form
41 approved by the State Treasurer, and naming the designated beneficiary. If
42 the contributor is not the account owner, the account owner shall also sign
43 the application form.
- 44 (2) Any person may make contributions to an account after the account is
45 opened.
- 46 (3) Contributions to an account shall be made only in cash.
- 47 (4) Contributions to an account shall not exceed (i) maximum contribution
48 limits applicable to program accounts in accordance with the Achieving a
49 Better Life Experience Program as provided under the Tax Increase
50 Prevention Act of 2014, Pub. L. No. 113-295 and (ii) the amount reasonably
51 necessary to meet the designated beneficiary's qualified disability expenses.

1 (5) An account owner may change the designated beneficiary of an account to
2 an eligible individual who is a member of the family of the former
3 designated beneficiary. At the direction of an account owner, all or a portion
4 of an account may be transferred to another account of which the designated
5 beneficiary is a member of the family of the designated beneficiary of the
6 transferee account if the transferee account was created pursuant to this
7 section or in accordance with the Achieving a Better Life Experience
8 Program as provided under the Tax Increase Prevention Act of 2014, Pub. L.
9 No. 113-295.

10 (e) Contributions. – The State Treasurer is authorized to accept, hold, invest, and
11 disburse contributions, and interest earned on such contributions, from contributors as trustee of
12 the ABLE Trust Fund. The State Treasurer shall hold all contributions to the ABLE Trust Fund,
13 and any earnings thereon, in a separate trust fund and shall invest the contributions in
14 accordance with this section. The assets of the ABLE Trust Fund shall at all times be preserved,
15 invested, and expended solely for the purposes of the Trust Fund and shall be held in trust for
16 the contributors and their designated beneficiaries. Nothing in this Article shall be construed to
17 prohibit the State Treasurer from accepting, holding, and investing contributions from
18 contributors who reside outside of North Carolina. Neither the contributions to the ABLE Trust
19 Fund, nor the earnings thereon, shall be considered State moneys, assets of the State, or State
20 revenue for any purpose. An account or a legal or beneficial interest in an account is not subject
21 to attachment, levy, or execution by a creditor of designated beneficiary.

22 (f) Investments. – The State Treasurer shall determine an appropriate investment
23 strategy for the ABLE Trust Fund. The strategy may include a combination of fixed income
24 assets and preferred or common stocks issued by any company incorporated, or otherwise
25 located within or without the United States, or other appropriate investment instruments to
26 achieve long-term return through a combination of capital appreciation and current income.
27 Unless prohibited by federal law, contributions to the ABLE Trust Fund may be invested in the
28 individual, common, or collective trust funds of an investment manager provided that the
29 investment manager meets both of the following conditions:

30 (1) The investment manager has assets under management of at least one
31 hundred million dollars (\$100,000,000) at all times.

32 (2) The investment manager is subject to the jurisdiction and regulation of the
33 United States Securities and Exchange Commission.

34 (g) Administration. – The State Treasurer shall develop and perform all functions
35 necessary and desirable to (i) administer the ABLE Trust Fund in such a manner as to meet and
36 comply with the requirements of the Achieving a Better Life Experience Program as provided
37 under the Tax Increase Prevention Act of 2014, Pub. L. No. 113-295 and federal regulations
38 under the act and (ii) provide such other services as the State Treasurer shall deem necessary to
39 facilitate participation in the ABLE Trust Fund. The State Treasurer is further authorized to
40 obtain the services of such investment advisors or program managers as may be necessary for
41 the proper administration and marketing and investment strategy for the ABLE Trust Fund.

42 (h) Limitations. – The State Treasurer, in administering the ABLE Trust Fund, shall
43 ensure each of the following:

44 (1) A rollover from an ABLE account does not apply to an amount paid or
45 distributed from the ABLE account to the extent that, not later than 60 days
46 after the date of the payment or distribution, the amount received is paid into
47 another ABLE account for the benefit of the same designated beneficiary or
48 an eligible individual who is a member of the family of the designated
49 beneficiary. The limitation of this subdivision does not apply to a transfer if
50 the transfer occurs within 12 months after the date of a previous transfer for
51 the benefit of the designated beneficiary.

- 1 (2) A person may make contributions for a taxable year for the benefit of an
2 individual who is an eligible individual for the taxable year to an ABLE
3 account that is established to meet the qualified disability expenses of the
4 designated beneficiary of the account.
- 5 (3) A designated beneficiary is limited to one ABLE account.
- 6 (4) An ABLE account may be established only for a designated beneficiary who
7 is a resident of North Carolina or a resident of a contracting state.
- 8 (5) Except as permitted under the Achieving a Better Life Experience Program
9 as provided under the Tax Increase Prevention Act of 2014, Pub. L. No.
10 113-295, a person does not direct the investment of any contributions to or
11 earnings from the Achieving a Better Life Experience Program more than
12 two times each year.
- 13 (6) An account or a legal or beneficial interest in an account is not assignable,
14 pledged, or otherwise used to secure or obtain a loan or other advancement.
- 15 (7) Separate records and accounting are maintained for each ABLE account.
- 16 (8) Reports are made no less frequently than annually to each ABLE account
17 owner.
- 18 (9) A trustee or guardian appointed as a signatory of an ABLE account does not
19 have or acquire any beneficial interest in the account and administers the
20 account for the benefit of the designated beneficiary.
- 21 (i) Disclaimer. – Nothing in this section shall be construed to create any obligation of
22 the State Treasurer, the State, or any agency or instrumentality of the State to guarantee for the
23 benefit of any parent, other interested party, or designated beneficiary the rate of return or other
24 return for any contribution to the ABLE Trust Fund and the payment of interest or other return
25 on any contribution to the ABLE Trust Fund.
- 26 (j) Fees. – The State Treasurer may establish application, account, and administration
27 fees in an amount not to exceed the amount necessary to offset the costs of the program.
- 28 (k) Means-Tested Programs. – Notwithstanding any other provision of law, assets of
29 and distributions for qualified disability expenses from an ABLE account shall be disregarded
30 for purposes of determining whether a designated beneficiary's financial circumstances meet
31 the eligibility requirements of other State assistance programs.
- 32 (l) Claim for Medical Assistance Benefits. – To the extent provided in subsection
33 529A(f) of the Tax Increase Prevention Act of 2014, Pub. L. No. 113-295, upon the death of a
34 designated beneficiary, the State shall have a claim for payment from the beneficiary's account
35 in an amount equal to the total medical assistance paid for the designated beneficiary after the
36 establishment of the account. The State may file its claim for repayment from the account with
37 the State Treasurer within 60 days of receiving notice from the State Treasurer of the death of
38 the designated beneficiary.
- 39 (m) Notice of the Death of a Designated Beneficiary. – Within 15 days of the date the
40 State Treasurer receives notice of the death of a designated beneficiary, the State Treasurer
41 shall provide notice of the designated beneficiary's death to the Division of Medical Assistance,
42 Department of Health and Human Services.
- 43 (n) Notice to Account Owner for Designated Beneficiary Receiving Medicaid. – Notice
44 of the State's right to file a claim against the estate following the death of a designated
45 beneficiary who received medical assistance must be provided to the account owner. The notice
46 shall be on a form prescribed by the Division of Medical Assistance, Department of Health and
47 Human Services, and shall explain:
- 48 (1) The types of Medicaid payments subject to a claim against the estate.
- 49 (2) That a claim will not be made if the individual is survived by a legal spouse,
50 a child or children under the age of 21, or a blind or disabled child or

1 children of any age who became blind or disabled before age 21 and still live
2 on the property of the deceased designated beneficiary.

3 (3) That a claim against the estate is limited to specified conditions.

4 (4) That a claim against the estate may be waived in the case of undue hardship
5 and the procedure for claiming an undue hardship."

6 **SECTION 21.2.(b)** The Department of Health and Human Services shall provide
7 information and assistance to the Department of State Treasurer in establishing and
8 implementing this section. The Department of State Treasurer shall consult with other
9 departments as needed.

10 **SECTION 21.2.(c)** The Department of State Treasurer and the Department of
11 Health and Human Services are authorized to adopt rules necessary to implement this section.

12 **SECTION 21.2.(d)** The State Treasurer shall begin accepting contributions
13 authorized under this section when federal regulations regarding the Achieving a Better Life
14 Experience Program, as provided under the Tax Increase Prevention Act of 2014, Pub. L. No.
15 113-295, have been issued and provide the guidance necessary to implement the Achieving a
16 Better Life Experience Trust Fund Program established in this section.

17 **SECTION 21.2.(e)** On or before March 1, 2016, the State Treasurer shall provide a
18 report to the Joint Legislative Oversight Committee on General Government and the Fiscal
19 Research Division. The report shall include information pertaining to the operational budget,
20 the number of accounts, and all relevant information relating to management of accounts.

21 **PART XXII. OFFICE OF ADMINISTRATIVE HEARINGS**

22 **WAYNESVILLE ADMINISTRATIVE LAW JUDGE/RULES REVIEW COMMISSION** 23 **COUNSEL**

24 **SECTION 22.1.(a)** The Office of Administrative Hearings shall identify office
25 space for the administrative law judge to be located in the Town of Waynesville. In selecting
26 office space, the Office of Administrative Hearings shall only consider locations that do not
27 impose an additional financial burden to the State. The Office is authorized to identify other
28 State-owned properties in the town and work with State officials to locate office space that
29 satisfies the requirements of this section. The Office of Administrative Hearings may provide
30 support staff for the administrative law judge to be located in the Town of Waynesville;
31 provided, there is no additional financial burden to the State as a result.

32 **SECTION 22.1.(b)** G.S. 143B-30.1 is amended by adding a new subsection to
33 read:

34 "(g) In the discretion of the Commission, G.S. 114 2.3 and G.S. 147 17 (a) through (c)
35 shall not apply to the Commission if the Commission is being sued by another agency,
36 institution, department, bureau, board, or commission of the State, whether such body is created
37 by the Constitution or by statute. The chairman, upon approval of a majority of the
38 Commission, may retain private counsel to represent the Commission to be paid with available
39 State funds to defend such litigation either independently or in cooperation with the
40 Department of Justice. If private counsel is to be so retained to represent the Commission, the
41 chairman shall designate lead counsel who shall possess final decision-making authority with
42 respect to the representation, counsel, or service for the Commission. Other counsel for the
43 Commission shall, consistent with the Rules of Professional Conduct, cooperate with such
44 designated lead counsel."
45

46 **PART XXIII. OFFICE OF STATE BUDGET AND MANAGEMENT**

47 **SYMPHONY CHALLENGE GRANT**

1 **SECTION 23.1.(a)** Of the funds appropriated in this act to the Office of State
2 Budget and Management, Special Appropriations, the sum of one million five hundred
3 thousand dollars (\$1,500,000) in recurring funds for the 2015-2016 fiscal year and the sum of
4 one million five hundred thousand dollars (\$1,500,000) in recurring funds for the 2016-2017
5 fiscal year shall be allocated to the North Carolina Symphony in accordance with this section. It
6 is the intent of the General Assembly that the North Carolina Symphony raise at least eight
7 million dollars (\$8,000,000) in non-State funds for the 2015-2016 fiscal year and at least eight
8 million dollars (\$8,000,000) in non-State funds for the 2016-2017 fiscal year. The North
9 Carolina Symphony shall not use funds transferred from the organization's endowment to its
10 operating budget to achieve the fund-raising targets set out in subsections (b) and (c) of this
11 section.

12 **SECTION 23.1.(b)** For the 2015-2016 fiscal year, the North Carolina Symphony
13 shall receive allocations from the Office of State Budget and Management as follows:

- 14 (1) Upon raising the initial sum of four million dollars (\$4,000,000) in non-State
15 funding, the North Carolina Symphony shall receive the sum of five hundred
16 thousand dollars (\$500,000).
- 17 (2) Upon raising an additional sum of two million dollars (\$2,000,000) in
18 non-State funding for a total amount of six million dollars (\$6,000,000) in
19 non-State funds, the North Carolina Symphony shall receive an additional
20 sum of five hundred thousand dollars (\$500,000).
- 21 (3) Upon raising an additional sum of two million dollars (\$2,000,000) in
22 non-State funding for a total sum of eight million dollars (\$8,000,000) in
23 non-State funds, the North Carolina Symphony shall receive the final sum of
24 five hundred thousand dollars (\$500,000) for the 2015-2016 fiscal year.

25 **SECTION 23.1.(c)** For the 2016-2017 fiscal year, the North Carolina Symphony
26 shall receive allocations from the Office of State Budget and Management as follows:

- 27 (1) Upon raising the initial sum of four million dollars (\$4,000,000) in non-State
28 funding, the North Carolina Symphony shall receive the sum of five hundred
29 thousand dollars (\$500,000).
- 30 (2) Upon raising an additional sum of two million dollars (\$2,000,000) in
31 non-State funding for a total amount of six million dollars (\$6,000,000) in
32 non-State funds, the North Carolina Symphony shall receive an additional
33 sum of five hundred thousand dollars (\$500,000).
- 34 (3) Upon raising an additional sum of two million dollars (\$2,000,000) in
35 non-State funding for a total sum of eight million dollars (\$8,000,000) in
36 non-State funds, the North Carolina Symphony shall receive the final sum of
37 five hundred thousand dollars (\$500,000) for the 2016-2017 fiscal year.

38 39 **STUDY TRANSITION TO RENT-BASED MODEL FOR STATE-OWNED** 40 **FACILITIES**

41 **SECTION 23.3.** The Office of State Budget and Management shall study charging
42 State agencies rent to cover the cost of facility management, maintenance, and related costs that
43 are attributable to those agencies. The Office of State Budget and Management shall report the
44 results of the study to the Joint Legislative Oversight Committee on General Government no
45 later than March 1, 2016. The study shall examine all of the following:

- 46 (1) Making receipt-supported all Department of Administration functions that
47 support the management and maintenance of State-owned facilities.
- 48 (2) An appropriate rate to charge agencies for facility management,
49 maintenance, and related costs, and the basis for determining that rate.
- 50 (3) Logistical, legal, and budgetary matters that would need to be resolved
51 before the rent-based model could be implemented.

- 1 (4) The desirability of using proceeds from lease payments for financing future
2 building repairs and needs of the State. Any analysis involving the
3 securitizing funds shall be undertaken in consultation with the State
4 Treasurer.
5 (5) Any other matter the Office of State Budget and Management deems
6 relevant.
7

8 PART XXIV. DEPARTMENT OF MILITARY AND VETERANS AFFAIRS

9 ESTABLISH DEPARTMENT OF MILITARY AND VETERANS AFFAIRS

10 CREATION OF DEPARTMENT

11
12 **SECTION 24.1.(a)** The Department of Military and Veterans Affairs is established
13 as a new executive department. All functions, powers, duties, and obligations vested in the
14 following agencies are transferred to, vested in, and consolidated within the Department of
15 Military and Veterans Affairs by a Type I transfer, as defined in G.S. 143A-6:
16

- 17 (1) The following components of the Department of Administration:
18 a. The Veterans' Affairs Commission.
19 b. The Governor's Jobs for Veterans Committee.
20 c. The Division of Veterans Affairs.
21 (2) The North Carolina Military Affairs Commission in the Office of the
22 Governor.

23 **SECTION 24.1.(b)** Chapter 143B of the General Statutes is amended by adding a
24 new Article to read:

25 "Article 14.

26 "Department of Military and Veterans Affairs.

27 "Part 1. General Provisions.

28 **"§ 143B-1210. Organization.**

29 (a) There is established the Department of Military and Veterans Affairs. The head of
30 the Department of Military and Veterans Affairs is the Secretary of Military and Veterans
31 Affairs, who shall be known as the Secretary.

32 (b) The powers and duties of the deputy secretaries and the divisions and directors of
33 the Department shall be subject to the direction and control of the Secretary of Military and
34 Veterans Affairs.

35 **"§ 143B-1211. Powers and duties of the Department of Military and Veterans Affairs.**

36 It shall be the duty of the Department of Military and Veterans Affairs to do all of the
37 following:

- 38 (1) Provide active outreach to the United States Department of Defense and the
39 United States Department of Homeland Security and their associated
40 establishments in North Carolina in order to support the military installations
41 and activities in the State, to enhance North Carolina's current
42 military-friendly environment and foster and promote business, technology,
43 transportation, education, economic development, and other efforts in
44 support of the mission, execution, and transformation of the United States
45 government military and national defense activities located in the State.
46 (2) Promote the industrial and economic development of localities included in or
47 adjacent to United States government military and national defense activities
48 and those of the State.
49 (3) Provide technical assistance and coordination between the State, its political
50 subdivisions, and the United States military and national defense activities
51 within the State of North Carolina.

- 1 (4) Award grants to local governments, State and federal agencies, and private
2 entities at the direction of the Secretary. The number of grants awarded and
3 the level of funding of each grant for each fiscal year shall be contingent
4 upon and determined by funds appropriated for that purpose by the General
5 Assembly.
- 6 (5) Provide active outreach to the United States Department of Veterans Affairs,
7 the veterans service organizations, and the veterans community in North
8 Carolina to support and assist North Carolina's veterans in identifying and
9 obtaining the services, assistance, and support to which they are entitled,
10 including monitoring efforts to provide services to veterans, newly separated
11 service members, and their immediate family members and disseminating
12 relevant materials.
- 13 (6) Monitor and enhance efforts to provide assistance and support for veterans
14 living in North Carolina and members of the North Carolina National Guard
15 and North Carolina residents in the Armed Forces Reserves not in active
16 federal service in the areas of (i) medical care, (ii) mental health and
17 rehabilitative services, (iii) housing, (iv) homelessness prevention, (v) job
18 creation, and (vi) education.
- 19 (7) Seek and receive monies from any source, including federal funds, gifts,
20 grants, and devises, which shall be expended for the purposes designated in
21 this Article.
- 22 (8) Provide active outreach, coordination, formal training and standards, and
23 official certification to localities of the State and veterans support
24 organizations in the development, implementation, and review of local
25 veterans services programs as part of the State program.
- 26 (9) Work with veterans services organizations and counterparts in other states to
27 monitor and encourage the timely and accurate processing of veterans'
28 benefit requests by the United States Department of Veterans Affairs,
29 including requests for service connected to health care, mental health care,
30 and disability payments.
- 31 (10) Manage and maintain the State's veterans nursing homes and cemeteries and
32 their associated assets to the standard befitting those who have worn the
33 uniform of the Armed Forces according to federal guidelines. Plan for
34 expansion and grow the capacity of these facilities and any new facilities as
35 required pending the availability of designated funds.
- 36 (11) Manage and maintain the State's Scholarships for Children of Wartime
37 Veterans in accordance with Part 2 of Article 14 of Chapter 143B of the
38 General Statutes and in support of the Veterans' Affairs Commission.
- 39 (12) Provide administrative, organizational, and funding support to the NC
40 Military Affairs Commission and the Governor's Working Group for
41 Veterans.
- 42 (13) Work with federal officials to obtain additional federal resources and
43 coordinate veterans policy development and information exchange.
- 44 (14) Work with the appropriate heads of the principal departments to coordinate
45 working relationships between State agencies and take all actions necessary
46 to ensure that available federal and State resources are directed toward
47 assisting veterans and addressing all issues of mutual concern to the State
48 and the Armed Forces of the United States, including, but not limited to,
49 quality of life issues unique to North Carolina's military personnel and their
50 families, the quality of educational opportunities for military children, the
51 future of federal impact aid, preparedness, public safety and security

1 concerns, transportation needs, alcoholic beverage law enforcement,
2 substance abuse, social service needs, possible expansion and growth of
3 military facilities in the State, and intergovernmental support agreements
4 with state and local governments.

5 (15) Educate the public on veterans and defense issues in coordination with
6 applicable State agencies.

7 (16) Adopt rules and procedures for the implementation of this section.

8 (17) Assist veterans, their families, and dependents in the presentation,
9 processing, proof, and establishment of such claims, privileges, rights, and
10 benefits as they may be entitled to under federal, State, or local laws, rules,
11 and regulations.

12 (18) Aid persons in active military service and their dependents with problems
13 arising out of that service that come reasonably within the purview of the
14 Department's program of assistance.

15 (19) Collect data and information as to the facilities and services available to
16 veterans, their families, and dependents and to cooperate with agencies
17 furnishing information or services throughout the State in order to inform
18 such agencies regarding the availability of (i) education, training, and
19 retraining facilities; (ii) health, medical, rehabilitation, and housing services
20 and facilities; (iii) employment and reemployment services; and (iv)
21 provisions of federal, State, and local laws, rules, and regulations affording
22 rights, privileges, and benefits to veterans, their families, and dependents,
23 and in respect to such other matters of similar, related, or appropriate nature
24 not herein set out.

25 (20) Establish such field offices, facilities, and services throughout the State as
26 may be necessary to carry out the purposes of this Article.

27 (21) Cooperate, as the Department deems appropriate, with governmental,
28 private, and civic agencies and instrumentalities in securing services or
29 benefits for veterans, their families, dependents, and beneficiaries.

30 (22) Enter into any contract or agreement with any person, business,
31 governmental agency, or other entity in furtherance of the purposes of this
32 Article.

33 (23) Train, assist, and provide guidance to the employees of any county, city,
34 town, or Indian tribe who are engaged in veterans service. Authority is
35 hereby granted to the governing body of any county, city, or town to
36 appropriate such amounts as it may deem necessary to provide a veterans
37 services program, and the expenditure of such funds is hereby declared to be
38 for a public purpose; such program shall be operated in affiliation with this
39 Department as set forth above and in compliance with Department policies
40 and procedures.

41 **"§ 143B-1212. Personnel of the Department of Military and Veterans Affairs.**

42 Notwithstanding G.S. 114-2.3, the Secretary of Military and Veterans Affairs shall have the
43 power to appoint all employees, including consultants and legal counsel, necessary to carry out
44 the powers and duties of the office. These employees shall be subject to the North Carolina
45 Human Resources Act, except that employees in positions designated as exempt under
46 G.S. 126-5(d)(1) are not subject to the Act, in accordance with the provisions of that section.

47 **"§ 143B-1213. Definitions.**

48 Except where provided otherwise, the following definitions apply in this Chapter:

49 (1) Department. – The Department of Military and Veterans Affairs.

50 (2) Secretary. – The Secretary of Military and Veterans Affairs.

51 (3) Veteran. – One of the following, as applicable:

- 1 a. For qualifying as a voting member of the State Board of Veterans
2 Affairs and as the State Director of Veterans Affairs, a person who
3 served honorably during a period of war as defined in Title 38,
4 United States Code.
5 b. For entitlement to the services of the Department of Military and
6 Veterans Affairs, any person who may be entitled to any benefits or
7 rights under the laws of the United States by reason of service in the
8 Armed Forces of the United States."
9

10 **CREATION OF STATUTORY PARTS AND RECODIFICATION AND REPEAL OF**
11 **AFFECTED STATUTES**

12 **SECTION 24.1.(c)** Veterans' Affairs Commission. – Part 13 of Article 9 of
13 Chapter 143B of the General Statutes is recodified as Part 2 of Article 14 of Chapter 143B of
14 the General Statutes and renumbered as G.S. 143B-1220 through G.S. 143B-1222. G.S. 165-19
15 through G.S. 165-22.1 are recodified under that Part as G.S. 143B-1223 through
16 G.S. 143B-1227.

17 **SECTION 24.1.(d)** Governor's Jobs for Veterans Committee. – Part 19 of Article 9
18 of Chapter 143B of the General Statutes is recodified as Part 3 of Article 14 of Chapter 143B of
19 the General Statutes and renumbered as G.S. 143B-1235 and G.S. 143B-1236.

20 **SECTION 24.1.(e)** Division of Veterans Affairs. – G.S. 165-1 through G.S. 165-4,
21 G.S. 165-6, 165-8, and 165-10 are repealed. G.S. 165-9, 165-11, and 165-11.1 are recodified
22 under Part 1 of Article 14 of Chapter 143B of the General Statutes as G.S. 143B-1214 through
23 G.S. 143B-1216, respectively.

24 **SECTION 24.1.(f)** Minor Veterans and Minor Spouses of Veterans. – Article 2 of
25 Chapter 165 of the General Statutes is recodified as Part 4 of Article 14 of Chapter 143B of the
26 General Statutes, G.S. 143B-1240 through G.S. 143B-1244. Article 3 of Chapter 165 of the
27 General Statutes is recodified as Part 5 of Article 14 of Chapter 143B of the General Statutes,
28 G.S. 143B-1247 and G.S. 143B-1248.

29 **SECTION 24.1.(g)** Veterans Recreation Authorities Law. – Article 5 of Chapter
30 165 of the General Statutes is recodified as Part 6 of Article 14 of Chapter 143B of the General
31 Statutes, G.S. 143B-1250 through G.S. 143B-1265.

32 **SECTION 24.1.(h)** Powers of Attorney. – Article 6 of Chapter 165 of the General
33 Statutes is recodified as Part 7 of Article 14 of Chapter 143B of the General Statutes,
34 G.S. 143B-1270 through G.S. 143B-1273.

35 **SECTION 24.1.(i)** Miscellaneous Provisions. – Article 7 of Chapter 165 of the
36 General Statutes is recodified as Part 8 of Article 14 of Chapter 143B of the General Statutes,
37 G.S. 143B-1275 through G.S. 143B-1277.

38 **SECTION 24.1.(j)** Employment Assistance. – Article 7A of Chapter 165 of the
39 General Statutes is recodified as Part 9 of Article 14 of Chapter 143B of the General Statutes,
40 G.S. 143B-1280 through G.S. 143B-1285.

41 **SECTION 24.1.(k)** State Veterans Home. – Article 8 of Chapter 165 of the
42 General Statutes is recodified as Part 10 of Article 14 of Chapter 143B of the General Statutes,
43 G.S. 143B-1290 through G.S. 143B-1300.

44 **SECTION 24.1.(l)** North Carolina Military Affairs Commission. – Chapter 127C
45 of the General Statutes is recodified as Part 11 of Article 14 of Chapter 143B of the General
46 Statutes, G.S. 143B-1310 through G.S. 143B-1314.

47
48 **CONFORMING CHANGES**

49 **SECTION 24.1.(m)** G.S. 20-79.4 reads as rewritten:
50 "**§ 20-79.4. Special registration plates.**

51 ...

(a2) ~~Special Plates Based Upon Military Service. – The Division of Veterans Affairs~~Department of Military and Veterans Affairs shall be responsible for verifying and maintaining all verification documentation for all special plates that are based upon military service. The ~~Division~~Department shall not issue a special plate that is based on military service unless the application is accompanied by a motor vehicle registration (MVR) verification form signed by the ~~Director of the Division of Veterans Affairs~~Secretary of Military and Veterans Affairs, or the ~~Director's~~Secretary's designee, showing that the ~~Division of Veterans Affairs~~Department of Military and Veterans Affairs has verified the applicant's credentials and qualifications to hold the special plate applied for.

- (1) Unless a qualifying condition exists requiring annual verification, no additional verification shall be required to renew a special registration plate either in person or through an online service.
- (2) If the ~~Division of Veterans Affairs~~Department of Military and Veterans Affairs determines a special registration plate has been issued due to an error on the part of the Division of Motor Vehicles, the plate shall be recalled and canceled.
- (3) If the ~~Division of Veterans Affairs~~Department of Military and Veterans Affairs determines a special registration plate has been issued to an applicant who falsified documents or has fraudulently applied for the special registration plate, the Division of Motor Vehicles shall revoke the special plate and take appropriate enforcement action.

...."

SECTION 24.1.(n) G.S. 20-79.5 reads as rewritten:

"§ 20-79.5. Special registration plates for elected and appointed State government officials.

(a) Plates. – The State government officials listed in this section are eligible for a special registration plate under G.S. 20-79.4. The plate shall bear the number designated in the following table for the position held by the official.

| Position | Number on Plate |
|---|-----------------|
| Governor | 1 |
| Lieutenant Governor | 2 |
| ... | |
| <u>Secretary of Military and Veterans Affairs</u> | <u>22</u> |
| Governor's Staff | <u>22-23-29</u> |

...."

SECTION 24.1.(o) G.S. 47-113.2 reads as rewritten:

"§ 47-113.2. Restricting access to military discharge documents.

...

(b) Definitions:

- (1) Authorized party. – Four categories of authorized parties are recognized with respect to access to military discharge documents under subsection (e) of this section:

...

- c. Authorized agents of the ~~Division of Veterans Affairs~~Department of Military and Veterans Affairs, the United States Department of Veterans Affairs, the Department of Defense, or a court official with an interest in assisting the subject or the deceased subject's beneficiaries to obtain a benefit.

...

(h) The North Carolina Association of Registers of Deeds and the ~~Division of Veterans Affairs~~Department of Military and Veterans Affairs shall adopt ~~before January 1, 2004~~, such

1 request forms and associated rules as are required to implement the provisions of this section.
2 All filing offices shall use the forms and comply with the rules, as adopted.

3"

4 **SECTION 24.1.(p)** G.S. 65-43.4(b) reads as rewritten:

5 "(b) A disinterment may be permitted, at no cost to the State, when the following
6 conditions are satisfied:

7 (1) The disinterment is requested in writing and filed with the Program Director
8 of the veterans cemeteries, the Assistant Secretary for Veterans Affairs, or the
9 ~~Division of Veterans Affairs;~~Department of Military and Veterans
10 Affairs;

11 (2) The request for disinterment contains the notarized signature of the nearest
12 of kin, such as surviving spouse. If the spouse is deceased, the signatures of
13 a majority of the surviving children of legal age will be required;

14 (3) The funeral director has obtained all necessary permits for disinterment."

15 **SECTION 24.1.(q)** G.S. 65-43.5 reads as rewritten:

16 **"§ 65-43.5. Reinterment.**

17 (a) The remains of a qualified veteran or the remains of an eligible family member may
18 be moved to a State veterans cemetery for reinterment, at no cost to the State, when the
19 following conditions are satisfied:

20 ...

21 (2) The reinterment is requested in writing and filed with the Program Manager
22 of veterans cemeteries, the Assistant Secretary for Veterans Affairs, or the
23 ~~Division of Veterans Affairs; and~~Department of Military and Veterans
24 Affairs;

25"

26 **SECTION 24.1.(r)** G.S. 93B-15.1(c1) reads as rewritten:

27 "(c1) Each occupational licensing board shall publish a document that lists the specific
28 criteria or requirements for licensure, registration, or certification by the board, with a
29 description of the criteria or requirements that are satisfied by military training or experience as
30 provided in this section, and any necessary documentation needed for obtaining the credit or
31 satisfying the requirement. The information required by this subsection shall be published on
32 the occupational licensing board's Web site and the Web site of the ~~North Carolina Division of~~
33 ~~Veterans Affairs.~~Department of Military and Veterans Affairs."

34 **SECTION 24.1.(s)** G.S. 116-209.23 reads as rewritten:

35 **"§ 116-209.23. Inconsistent laws inapplicable.**

36 Insofar as the provisions of this Article are inconsistent with the provisions of any general
37 or special laws, or parts thereof, the provisions of this Article shall be controlling, except that
38 no provision of the 1971 amendments to this Article shall apply to scholarships for children of
39 war veterans as set forth in ~~Article 4 of Chapter 165,~~Part 2 of Article 14 of Chapter 143B of the
40 General Statutes, as amended."

41 **SECTION 24.1.(t)** G.S. 116B-7(b) reads as rewritten:

42 "(b) An amount specified in the Current Operations Appropriations Act shall be
43 transferred annually from the Escheat Fund to the Department of ~~Administration~~Military and
44 Veterans Affairs to partially fund the program of Scholarships for Children of War Veterans
45 established by ~~Article 4 of Chapter 165~~Part 2 of Article 14 of Chapter 143B of the General
46 Statutes. Those funds may be used only for residents of this State who (i) are worthy and needy
47 as determined by the Department of ~~Administration,~~Military and Veterans Affairs and (ii) are
48 enrolled in public institutions of higher education of this State."

49 **SECTION 24.1.(u)** G.S. 126-2(b1)(5) reads as rewritten:

50 "(b1) The Commission shall consist of nine members, appointed as follows:

51 ...

- 1 (5) One member who is a veteran of the Armed Forces of the United States
 2 appointed by the Governor upon the nomination of the ~~Veterans~~-Veterans'
 3 Affairs Commission and who is a State employee subject to this Chapter
 4 serving in a nonexempt supervisory position. The member may not be a
 5 human resources professional."

6 **SECTION 24.1.(v)** G.S. 126-5(d)(1) is amended by adding a new sub-subdivision

7 to read:

- 8 "(d) (1) Exempt Positions in Cabinet Department. – Subject to the provisions of this
 9 Chapter, which is known as the North Carolina Human Resources Act, the
 10 Governor may designate a total of 1,500 exempt positions throughout the
 11 following departments and offices:
 12 a. Department of Administration.
 13 b. Department of Commerce.
 14 c. Repealed by Session Laws 2012-83, s. 7, effective June 26, 2012,
 15 and by Session Laws 2012-142, s. 25.2E(a), effective January 1,
 16 2013.
 17 d. Department of Public Safety.
 18 e. Department of Cultural Resources.
 19 f. Department of Health and Human Services.
 20 g. Department of Environment and Natural Resources.
 21 h. Department of Revenue.
 22 i. Department of Transportation.
 23 j. Repealed by Session Laws 2012-83, s. 7, effective June 26, 2012,
 24 and by Session Laws 2012-142, s. 25.2E(a), effective January 1,
 25 2013.
 26 k. Office of Information Technology Services.
 27 l. Office of State Budget and Management.
 28 m. Office of State Human Resources.
 29 n. Department of Military and Veterans Affairs."

30 **SECTION 24.1.(w)** G.S. 127C-1, as recodified by subsection (l) of this section,

31 reads as rewritten:

32 **"§ 143B-1310. Commission established; purpose; transaction of business.**

33 (a) Establishment. – There is established the North Carolina Military Affairs
 34 Commission. The Commission shall be established within the ~~Office of the Governor. The~~
 35 ~~Department of Commerce is responsible for organizational, budgetary, and administrative~~
 36 ~~purposes.~~Department of Military and Veterans Affairs.

37 (b) Purpose. – The Commission shall provide advice, counsel, and recommendations to
 38 ~~the Governor, the~~ General Assembly, the Secretary of ~~Commerce,~~Military and Veterans
 39 Affairs, and other State agencies on initiatives, programs, and legislation that will continue and
 40 increase the role that North Carolina's military installations, the National Guard, and Reserves
 41 play in America's defense strategy and the economic health and vitality of the State. The
 42 Commission is authorized ~~to~~to do all of the following, as delegated by the Secretary of
 43 Military and Veterans Affairs:

44 ...

45 (c) Transaction of Business. – The Commission shall meet, at a minimum, at least once
 46 during each quarter and shall provide a report on military affairs to the ~~Governor~~Secretary of
 47 Military and Veterans Affairs and to the General Assembly at least every six months. Prior to
 48 the start of a Regular Session of the General Assembly, the Commission shall report to the
 49 General Assembly with recommendations, if any, for legislation. Priority actions or issues may
 50 be submitted at any time.

51"

1 **SECTION 24.1.(x)** G.S. 127C-2(h), as recodified by subsection (l) of this section,
2 reads as rewritten:

3 "(h) The initial meeting of the Commission shall be within 30 days of the effective date
4 of this act at a time and place to be determined by the Secretary of Commerce. The first order
5 of business at the initial meeting of the Commission shall be the adoption of bylaws and
6 establishment of committees, after which the Commission shall meet upon the call of the
7 ~~Chairman or the Military Advisor within the Office of the Governor or the Secretary of the~~
8 Department of Military and Veterans Affairs. The members shall receive no compensation for
9 attendance at meetings, except a per diem expense reimbursement. Members of the
10 Commission who are not officers or employees of the State shall receive reimbursement for
11 subsistence and travel expenses at rates set out in G.S. 138-5 from funds made available to the
12 Commission. Members of the Commission who are officers or employees of the State shall be
13 reimbursed for travel and subsistence at the rates set out in G.S. 138-6 from funds made
14 available to the Commission. The Department of ~~Commerce~~Military and Veterans Affairs
15 shall use funds within its budget for the per diem, subsistence, and travel expenses authorized
16 by this subsection."

17 **SECTION 24.1.(y)** G.S. 127C-3, as recodified by subsection (l) of this section, is
18 repealed.

19 **SECTION 24.1.(z)** G.S. 127C-5, as recodified by subsection (l) of this section,
20 reads as rewritten:

21 **"§ 143B-1314. Protection of sensitive documents.**

22 (a) In carrying out any purpose set out in ~~G.S. 127C-1(b)~~,G.S. 143B-1310(b), the
23 Commission and the Department of ~~Commerce~~Military and Veterans Affairs may share
24 documents and discussions protected from disclosure under G.S. 132-1.2 and G.S. 143-318.11
25 with other public bodies. Any information shared under this subsection shall be confidential
26 and exempt from Chapter 132 of the General Statutes to the same extent that it is confidential
27 in the possession of the Commission or the Department.

28 (b) In carrying out any purpose set out in ~~G.S. 127C-1(b)~~,G.S. 143B-1310(b), the
29 Commission and the Department of ~~Commerce~~Military and Veterans Affairs may share
30 documents and discussions protected from disclosure under G.S. 132-1.2 and G.S. 143-318.11
31 with any third party in its discretion. Any information shared under this subsection shall be
32 shared under an agreement to keep the information confidential to the same extent that it is
33 confidential in the possession of the Commission or the Department."

34 **SECTION 24.1.(aa)** G.S. 143B-6 is amended by adding a new subdivision to read:

35 **"§ 143B-6. Principal departments.**

36 In addition to the principal departments enumerated in the Executive Organization Act of
37 1971, all executive and administrative powers, duties, and functions not including those of the
38 General Assembly and its agencies, the General Court of Justice and the administrative
39 agencies created pursuant to Article IV of the Constitution of North Carolina, and higher
40 education previously vested by law in the several State agencies, are vested in the following
41 principal departments:

42 ...

43 (12) Department of Military and Veterans Affairs."

44 **SECTION 24.1.(bb)** G.S. 143B-399, as recodified and renumbered by subsection
45 (c) of this section, reads as rewritten:

46 **"§ 143B-1220. Veterans' Affairs Commission – creation, powers and duties.**

47 There is hereby created the Veterans' Affairs Commission of the Department of
48 ~~Administration~~of Military and Veterans Affairs. The Veterans' Affairs Commission shall have
49 the following functions and ~~duties~~duties, as delegated by the Secretary of Military and
50 Veterans Affairs:

- 1 (1) To advise the ~~Governor~~ Secretary of Military and Veterans Affairs on
2 matters relating to the affairs of veterans in North Carolina;
- 3 (2) To maintain a continuing review of the operation and budgeting of existing
4 programs for veterans and their dependents in the State and to make any
5 recommendations to the ~~Governor~~ Secretary of Military and Veterans
6 Affairs for improvements and additions to such matters to which the
7 ~~Governor~~ Secretary shall give due consideration;
- 8 (3) ~~To serve collectively as a liaison between the Division of Veterans Affairs~~
9 ~~and the veterans organizations represented on the Commission;~~
- 10 (4) To promulgate rules and regulations concerning the awarding of
11 scholarships for children of North Carolina veterans as provided by ~~Article 4~~
12 ~~of Chapter 165 of the General Statutes of North Carolina~~ this Article. The
13 Commission shall make rules and regulations consistent with the provisions
14 of this ~~Chapter~~ Article. All rules and regulations not inconsistent with the
15 provisions of this Chapter heretofore adopted by the State Board of Veterans'
16 Affairs shall remain in full force and effect unless and until repealed or
17 superseded by action of the ~~Veterans~~ Veterans' Affairs Commission. All
18 rules and regulations adopted by the Commission shall be enforced by the
19 ~~Division of Veterans' Affairs~~ Department of Military and Veterans Affairs;
- 20 (4a) To promulgate rules concerning the awarding of the North Carolina Services
21 Medal to all veterans who have served in any period of war as defined in 38
22 U.S.C. § 101. The award shall be self-financing; those who wish to be
23 awarded the medal shall pay a fee to cover the expenses of producing the
24 medal and awarding the medal. All rules adopted by the Commission with
25 respect to the North Carolina Services Medal shall be implemented and
26 enforced by the ~~Division of Veterans' Affairs~~ Department of Military and
27 Veterans Affairs; and
- 28 (5) To advise the ~~Governor~~ Secretary on any matter the ~~Governor~~ Secretary may
29 refer to it."

30 **SECTION 24.1(cc)** G.S. 143B-400, as recodified and renumbered by subsection
31 (c) of this section, reads as rewritten:

32 "**§ 143B-1221. Veterans' Affairs Commission – members; selection; quorum;**
33 **compensation.**

34 The Veterans' Affairs Commission of the Department of ~~Administration~~ Military and
35 Veterans Affairs shall consist of one voting member from each congressional district, all of
36 whom shall be veterans, appointed by the Governor for four-year terms. In making these
37 appointments, the Governor shall insure that both major political parties will be continuously
38 represented on the Veterans' Affairs Commission.

39 The initial members of the Commission shall be the appointed members of the current
40 Veterans' Affairs Commission who shall serve for the remainder of their current terms and six
41 additional members appointed by the Governor for terms expiring June 30, 1981. Thereafter, all
42 members shall be appointed for terms of four years. Any appointment to fill a vacancy on the
43 Commission created by the resignation, dismissal, death or disability of a member shall be for
44 the balance of the unexpired term. The Governor shall have the power to remove any member
45 of the Commission in accordance with provisions of G.S. 143B-13.

46 In the event that more than 11 congressional districts are established in the State, the
47 Governor shall on July 1 following the establishment of such additional congressional districts
48 appoint a member of the Commission from that congressional district. If on July 1, 1977, or at
49 any time thereafter due to congressional redistricting, two or more members of the Veterans'
50 Affairs Commission shall reside in the same congressional district then such members shall
51 continue to serve as members of the Commission for a period equal to the remainder of their

1 current terms on the Commission provided that upon the expiration of said term or terms the
2 Governor shall fill such vacancy or vacancies in such a manner as to insure that as
3 expeditiously as possible there is one member of the Veterans' Affairs Commission who is a
4 resident of each congressional district in the State.

5 The Governor shall designate from the membership of the Commission a chairman and
6 vice-chairman of the Commission who shall serve at the pleasure of the Governor. The
7 Secretary of the Department of ~~Administration~~ Military and Veterans Affairs or his designee
8 shall serve as secretary of the Commission.

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

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

12 The Veterans' Affairs Commission shall meet at least twice a year and may hold special
13 meetings at any time or place within the State at the call of the chairman, at the call of the
14 Secretary of the Department of ~~Administration~~ Military and Veterans Affairs or upon the
15 written request of at least six members.

16 All clerical and other services required by the Commission shall be provided by the
17 Secretary of the Department of ~~Administration~~ Military and Veterans Affairs."

18 **SECTION 24.1.(dd)** G.S. 143B-420, as recodified by subsection (d) of this
19 section, reads as rewritten:

20 "**§ 143B-1235. Governor's Jobs for Veterans Committee – creation; appointment,
21 organization, etc.; duties.**

22 (a) There is hereby created and established in the North Carolina Department of
23 ~~Administration, Division of Veterans Affairs,~~ Military and Veterans Affairs, a committee to be
24 known as the Governor's Jobs for Veterans Committee, with one member from each
25 Congressional district, appointed by the Governor. Members of the Committee shall serve at
26 the pleasure of the Governor. The Secretary of ~~Administration,~~ Military and Veterans Affairs
27 with the concurrence of the Governor, shall appoint a chairman to administer this Committee
28 who shall be subject to the direction and supervision of the Secretary. The chairman shall serve
29 at the pleasure of the Secretary. The chairman shall devote full time to his duties of office.

30 (b) ~~Subject to the general supervision of the Secretary, the~~ The duties of the chairman
31 shall include but not be limited to the ~~following~~ following, as delegated by the Secretary of
32 Military and Veterans Affairs:

- 33 (1) Serving as a liaison between the Office of the Governor and all State
34 agencies to insure that veterans receive the employment preference to which
35 they are legally entitled and that such State agencies list available jobs with
36 appropriate public employment services;
- 37 (2) Evaluating existing programs designed to benefit veterans and submitting
38 reports and recommendations to the Governor and Secretary;
- 39 (3) Developing and furthering favorable employer attitudes toward the
40 employment of veterans by appropriate promulgation of information
41 concerning veterans and the functions of the Committee;
- 42 (4) Serving as a liaison between the Committee and communities throughout the
43 State to the end that civic committees and volunteer groups are formed and
44 utilized to promote the objectives of the Committee;
- 45 (5) Assisting employers in properly designing affirmative action plans as they
46 relate to handicapped and Vietnam-era veterans;
- 47 (6) Serving as a liaison between veterans and State agencies on questions
48 regarding the employment practices of such State agencies."

49 **SECTION 24.1.(ee)** G.S. 161-10.1 reads as rewritten:

50 "**§ 161-10.1. Exemption of Armed Forces discharge documents and certain other records
51 needed in support of claims for veterans' benefits.**

1 Any schedule of fees which is now or may be prescribed in Chapter 161 of the General
2 Statutes or in G.S. 161-10 shall not apply to nor shall the same repeal any of the provisions of
3 Article 5 of Chapter 47 of the General Statutes. Any schedule of fees which is now or may be
4 hereafter prescribed in Chapter 161 of the General Statutes or as may appear in G.S. 161-10
5 shall not apply to nor shall the same repeal any of the provisions of
6 ~~G.S. 165-11~~. G.S. 143B-1215."

7 **SECTION 24.1.(ff)** G.S. 165-11, as recodified by subsection (e) of this section,
8 reads as rewritten:

9 "**§ 143B-1215. Copies of records to be furnished to the Department of**
10 **Administration-Military and Veterans Affairs.**

11 (a) Whenever copies of any State and local public records are requested by a
12 representative of the Department of ~~Administration-Military and Veterans Affairs~~ in assisting
13 persons in obtaining any federal, State, local or privately provided benefits relating to veterans
14 and their beneficiaries, the official charged with the custody of any such records shall without
15 charge furnish said representative with the requested number of certified copies of such
16 records; provided, that this section shall not apply to the disclosure of information in certain
17 privileged and confidential records referred to elsewhere in the General Statutes of North
18 Carolina, which information shall continue to be disclosed in the manner prescribed by the
19 statute relating thereto.

20 (b) No official chargeable with the collection of any fee or charge under the laws of the
21 State of North Carolina in connection with his official duties shall be held accountable on his
22 official bond or otherwise for any fee or charge remitted pursuant to the provisions of this
23 section."

24 **SECTION 24.1.(gg)** G.S. 165-11.1, as recodified by subsection (e) of this section,
25 reads as rewritten:

26 "**§ 143B-1216. Confidentiality of ~~Veterans Affairs~~Department of Military and Veterans**
27 **Affairs records.**

28 Notwithstanding any other provisions of Chapter 143B, no records of the ~~Division of~~
29 ~~Veterans Affairs in the Department of Administration~~Department of Military and Veterans
30 Affairs shall be disclosed or used for any purpose except for official purposes, and no records
31 shall be disclosed, destroyed or used in any manner which is in violation of any existing federal
32 law or regulation. Nothing in this Chapter shall convert records which are the property of the
33 federal government into State property."

34 **SECTION 24.1.(hh)** G.S. 165-20, as recodified by subsection (c) of this section,
35 reads as rewritten:

36 "**§ 143B-1224. Definitions.**

37 As used in this Article the terms defined in this section shall have the following meaning:

38 ...

39 (3) "Child" means a person: (i) under 25 years of age at the time of application
40 for a scholarship, (ii) who is a domiciliary of North Carolina and is a
41 resident of North Carolina when applying for a scholarship, (iii) who has
42 completed high school or its equivalent prior to receipt of a scholarship
43 awarded under this Article, (iv) who has complied with the requirements of
44 the Selective Service System, if applicable, and (v) who further meets one of
45 the following requirements:

46 a. A person whose veteran parent was a legal resident of North Carolina
47 at the time of said veteran's entrance into that period of service in the
48 Armed Forces during which eligibility is established under
49 ~~G.S. 165-22~~. G.S. 143B-1226.

50 b. A veteran's child who was born in North Carolina and has been a
51 resident of North Carolina continuously since birth. Provided, that

1 the requirement in the preceding sentence as to birth in North
 2 Carolina may be waived by the Department of ~~Administration~~
 3 Military and Veterans Affairs if it is shown to the satisfaction of the
 4 Department that the child's mother was a native-born resident of
 5 North Carolina and was such resident at the time of her marriage to
 6 the veteran and was outside the State temporarily at the time of the
 7 child's birth, following which the child was returned to North
 8 Carolina within a reasonable period of time where said child has
 9 since lived continuously.

10 c. A person meeting either of the requirements set forth in subdivision
 11 (3) a or b above, and who was legally adopted by the veteran prior to
 12 said person's reaching the age of 15 years.

13 ...
 14 (5) "Private educational institution" means any junior college, senior college or
 15 university which is operated and governed by private interests not under the
 16 control of the federal, State or any local government, which is located within
 17 the State of North Carolina, which does not operate for profit, whose
 18 curriculum is primarily directed toward the awarding of associate,
 19 baccalaureate or graduate degrees, which agrees to the applicable
 20 administration and funding provisions of ~~G.S. 165-22.1~~, G.S. 143B-1227, of
 21 this Article, and which is otherwise approved by the State Board of Veterans
 22 Affairs.

23"

24 **SECTION 24.1.(ii)** G.S. 165-21, as recodified by subsection (c) of this section,
 25 reads as rewritten:

26 **"§ 143B-1225. Scholarship.**

27 (a) A scholarship granted pursuant to this Article shall consist of the following benefits
 28 in either a State or private educational institution:

29 ...

30 (2) With respect to private educational institutions, a scholarship shall consist of
 31 a monetary allowance as prescribed in ~~G.S. 165-22.1(d)~~, G.S. 143B-1227(d).

32"

33 **SECTION 24.1.(jj)** G.S. 165-22, as recodified by subsection (c) of this section,
 34 reads as rewritten:

35 **"§ 143B-1226. Classes or categories of eligibility under which scholarships may be
 36 awarded.**

37 A child, as defined in this Article, who falls within the provisions of any eligibility class
 38 described below shall, upon proper application be considered for a scholarship, subject to the
 39 provisions and limitations set forth for the class under which the child is considered:

40 ...

41 (2) Class I-B: Under this class a limited scholarship providing only those
 42 benefits set forth in ~~G.S. 165-21(1)a and d and 165-21(2) of this~~
 43 ~~Article, G.S. 143B-1225(a)(1)a. and d. and G.S. 143B-1225(a)(2)~~ shall be
 44 awarded to any child whose veteran parent, at the time the benefits pursuant
 45 to this Article are sought to be availed of, is or was at the time of his death
 46 receiving compensation for a wartime service-connected disability of one
 47 hundred percent (100%) as rated by the United States Department of
 48 Veterans Affairs. Provided, that if the veteran parent of a recipient under this
 49 class should die of his wartime service-connected condition before the
 50 recipient shall have utilized all of his scholarship eligibility time, then the
 51 North Carolina Department of ~~Administration~~ Military and Veterans Affairs

1 shall amend the recipient's award from Class I-B to Class I-A for the
 2 remainder of the recipient's eligibility time. The effective date of such an
 3 amended award shall be determined by the Department of
 4 ~~Administration, Military and Veterans Affairs~~ but, in no event shall it predate
 5 the date of the veteran parent's death.

- 6 ...
 7 (4) Class III: Under this class a scholarship may be awarded to not more than
 8 100 children yearly, each of whose veteran parent, at the time the benefits
 9 pursuant to this Article are sought to be availed of:
- 10 a. Is or was at the time of his death drawing pension for permanent and
 11 total disability, nonservice-connected, as rated by the United States
 12 Department of Veterans Affairs.
 - 13 b. Is deceased and who does not fall within the provisions of any other
 14 eligibility class described in ~~G.S. 165-22(1), G.S. 143B-1226(1), (2),~~
 15 (3), (4)a., nor (5).
 - 16 c. Served in a combat zone, or waters adjacent to a combat zone, or any
 17 other campaign, expedition, or engagement for which the United
 18 States Department of Defense authorizes a campaign badge or medal,
 19 who does not fall within the provisions of any other class described
 20 in ~~G.S. 165-22(1), G.S. 143B-1226(1), (2), (3), (4)a., or (5).~~
- 21 (5) Class IV: Under this class a scholarship as defined in
 22 ~~G.S. 165-21~~G.S. 143B-1225 shall be awarded to any child whose parent,
 23 while serving honorably as a member of the Armed Forces in active federal
 24 service during a period of war, as defined in
 25 ~~G.S. 165-20(4), G.S. 143B-1224(4),~~ was listed by the United States
 26 government as (i) missing in action, (ii) captured in line of duty by a hostile
 27 force, or (iii) forcibly detained or interned in line of duty by a foreign
 28 government or power."

29 **SECTION 24.1.(kk)** G.S. 165-22.1, as recodified by subsection (c) of this section,
 30 reads as rewritten:

31 "**§ 143B-1227. Administration and funding.**

32 (a) The administration of the scholarship program shall be vested in the Department of
 33 ~~Administration, Military and Veterans Affairs,~~ and the disbursing and accounting activities
 34 required shall be a responsibility of the Department of ~~Administration, Military and Veterans~~
 35 Affairs. The ~~Veterans—Veterans'~~ Veterans' Affairs Commission shall determine the eligibility of
 36 applicants, select the scholarship recipients, establish the effective date of scholarships, and
 37 may suspend or revoke scholarships if the ~~said Veterans—Veterans'~~ Veterans' Affairs Commission finds
 38 that the recipient does not comply with the registration requirements of the Selective Service
 39 System or does not maintain an adequate academic status, or if the recipient engages in riots,
 40 unlawful demonstrations, the seizure of educational buildings, or otherwise engages in
 41 disorderly conduct, breaches of the peace or unlawful assemblies. The Department of
 42 ~~Administration, Military and Veterans Affairs~~ shall maintain the primary and necessary records,
 43 and the ~~Veterans—Veterans'~~ Veterans' Affairs Commission shall promulgate such rules and regulations not
 44 inconsistent with the other provisions of this Article as it deems necessary for the orderly
 45 administration of the program. It may require of State or private educational institutions, as
 46 defined in this Article, such reports and other information as it may need to carry out the
 47 provisions of this Article. The Department of ~~Administration, Military and Veterans Affairs~~
 48 shall disburse scholarship payments for recipients certified eligible by the Department of
 49 ~~Administration, Military and Veterans Affairs~~ upon certification of enrollment by the enrolling
 50 institution.

1 (b) Funds for the support of this program shall be appropriated to the Department of
2 ~~Administration-Military and Veterans Affairs~~ as a reserve for payment of the allocable costs for
3 room, board, tuition, and other charges, and shall be placed in a separate budget code from
4 which disbursements shall be made. Funds to support the program shall be supported by
5 receipts from the Escheat Fund, as provided by G.S. 116B-7, but those funds may be used only
6 for worthy and needy residents of this State who are enrolled in public institutions of higher
7 education of this State. In the event the said appropriation for any year is insufficient to pay the
8 full amounts allocable under the provisions of this Article, such supplemental sums as may be
9 necessary shall be allocated from the Contingency and Emergency Fund. The method of
10 disbursing and accounting for funds allocated for payments under the provisions of this section
11 shall be in accordance with those standards and procedures prescribed by the Director of the
12 Budget, pursuant to the ~~Executive Budget Act~~.State Budget Act.

13 (c) Allowances for room and board in State educational institutions shall be at such rate
14 as established by the Secretary of the Department of ~~Administration-Military and Veterans~~
15 Affairs.

16 (d) Scholarship recipients electing to attend a private educational institution shall be
17 granted a monetary allowance for each term or other academic period attended under their
18 respective scholarship awards. All recipients under Class I-B scholarship shall receive an
19 allowance at one rate, irrespective of course or institution; all recipients under Classes I-A, II,
20 III and IV shall receive a uniform allowance at a rate higher than for Class I-B, irrespective of
21 course or institution. The amount of said allowances shall be determined by the Director of the
22 Budget and made known prior to the beginning of each fall quarter or semester; provided that
23 the Director of the Budget may change the allowances at intermediate periods when in his
24 judgment such changes are necessary. Disbursements by the State shall be to the private
25 institution concerned, for credit to the account of each recipient attending said institution. The
26 manner of payment to any private institution shall be as prescribed by the Department of
27 ~~Administration-Military and Veterans Affairs.~~ The participation by any private institution in the
28 program shall be subject to the applicable provisions of this Article and to examination by State
29 auditors of the accounts of scholarship recipients attending or having attended private
30 institutions. The ~~Veterans-Veterans'~~ Veterans' Affairs Commission may defer making an award or may
31 suspend an award in any private institution which does not comply with the provisions of this
32 Article relating to said institutions.

33 (e) Irrespective of other provisions of this Article, the ~~Veterans-Veterans'~~ Veterans' Affairs
34 Commission may prescribe special procedures for adjusting the accounts of scholarship
35 recipients who for reasons of illness, physical inability to attend class or for other valid reason
36 satisfactory to the ~~Veterans-Veterans'~~ Veterans' Affairs Commission may withdraw from State or private
37 educational institutions prior to the completion of the term, semester, quarter or other academic
38 period being attended at the time of withdrawal. Such procedures may include, but shall not be
39 limited to, paying the recipient the dollar value of his unused entitlements for the academic
40 period being attended, with a corresponding deduction of this period from his remaining
41 scholarship eligibility time."

42 **SECTION 24.1.(II)** G.S. 165-44.5, as recodified by subsection (j) of this section,
43 reads as rewritten:

44 **"§ 143B-1284. Priority employment assistance directed.**

45 All covered service providers, as specified in ~~G.S. 165-44.4~~,G.S. 143B-1283, shall establish
46 procedures to provide veterans with priority, not inconsistent with existing federal or State law,
47 to participate in employment and job training assistance programs."

48 **SECTION 24.1.(mm)** G.S. 165-44.6, as recodified by subsection (j) of this section,
49 reads as rewritten:

50 **"§ 143B-1285. Implementation and performance measures.**

51 The North Carolina Commission on Workforce Preparedness shall:

- 1 (1) Issue implementing directives that shall apply to all covered service
2 providers as specified in ~~G.S. 165-44.4~~, G.S. 143B-1283, and revise those
3 directives as necessary to accomplish the purpose of this Article.
4 (2) Develop measures of service for veterans that will serve as indicators of
5 compliance with the provisions of this Article by all covered service
6 providers.
7 (3) Annually publish and submit to the Joint Legislative Commission on
8 Governmental Operations, beginning not later than October 1, 1998, a report
9 detailing covered providers' compliance with the provisions of this Article."

10 **SECTION 24.1.(nn)** G.S. 165-46, as recodified by subsection (k) of this section,
11 reads as rewritten:

12 **"§ 143B-1291. Establishment.**

13 The State of North Carolina shall construct, maintain, and operate veterans homes for the
14 aged and infirm veterans resident in this State under the administrative authority and control of
15 the ~~Division of Veterans Affairs of the Department of Administration~~ Department of Military
16 and Veterans Affairs. There is vested in ~~such Division~~ the Department any and all powers and
17 authority that may be necessary to enable it to establish and operate the homes and to issue
18 rules necessary to operate the homes in compliance with applicable State and federal statutes
19 and regulations."

20 **SECTION 24.1.(oo)** G.S. 165-47, as recodified by subsection (k) of this section,
21 reads as rewritten:

22 **"§ 143B-1292. Exemption from certificate of need.**

23 Any state veterans home established by the ~~Division of Veterans Affairs~~ Department of
24 Military and Veterans Affairs shall be exempt from the certificate of need requirements as set
25 out in Article 9 of Chapter 131E, or as may be hereinafter enacted."

26 **SECTION 24.1.(pp)** G.S. 165-48, as recodified by subsection (k) of this section,
27 reads as rewritten:

28 **"§ 143B-1293. North Carolina Veterans Home Trust Fund.**

29 (a) Establishment. – A trust fund shall be established in the State treasury, for the
30 ~~Division of Veterans Affairs~~ Department of Military and Veterans Affairs, to be known as the
31 North Carolina Veterans Home Trust Fund.

32 (b) Composition. – The trust fund shall consist of all funds and monies received by the
33 ~~Veterans-Veterans' Affairs Commission or the Division of Veterans Affairs~~ from the United
34 States, any federal agency or institution, and any other source, whether as a grant,
35 appropriation, gift, contribution, devise, or individual reimbursement, for the care and support
36 of veterans who have been admitted to a State veterans home.

37 (c) Use of Fund. – The trust fund created in subsection (a) of this section shall be used
38 by the ~~Division of Veterans Affairs~~ Department of Military and Veterans Affairs to do the
39 following:

- 40 (1) To pay for the care of veterans in said State veterans homes;
41 (2) To pay the general operating expenses of the State veterans homes, including
42 the payment of salaries and wages of officials and employees of said homes;
43 and
44 (3) To remodel, repair, construct, modernize, or add improvements to buildings
45 and facilities at the homes.

46 (d) Miscellaneous. – The following provisions apply to the trust fund created in
47 subsection (a) of this section:

- 48 (1) All funds deposited and all income earned on the investment or reinvestment
49 of such funds shall be credited to the trust fund.

- 1 (2) Any monies remaining in the trust fund at the end of each fiscal year shall
2 remain on deposit in the State treasury to the credit of the North Carolina
3 Veterans Home Trust Fund.
- 4 (3) Nothing contained herein shall prohibit the establishment and utilization of
5 special agency accounts by the ~~Division of Veterans Affairs, as may be~~
6 ~~approved by the Veterans~~ Veterans' Affairs Commission, for the receipt and
7 disbursement of personal funds of the State veterans homes' residents or for
8 receipt and disbursement of charitable contributions for use by and for
9 residents."

10 **SECTION 24.1.(qq)** G.S. 165-49, as recodified by subsection (k) of this section,
11 reads as rewritten:

12 **"§ 143B-1294. Funding.**

13 (a) ~~The Division of Veterans Affairs of the Department of Administration~~Department
14 of Military and Veterans Affairs may apply for and receive federal aid and assistance from the
15 United States Department of Veterans Affairs or any other agency of the United States
16 Government authorized to pay federal aid to states for the construction and acquisition of
17 veterans homes under Title 38, United States Code, section 8131 et seq., or for the care or
18 support of disabled veterans in State veterans homes under Title 38, United States Code,
19 section 1741 et seq., or from any other federal law for said purposes.

20 (b) ~~The Division of Veterans Affairs~~Department may receive from any source any gift,
21 contribution, devise, or individual reimbursement, the receipt of which does not exclude any
22 other source of revenue.

23 (c) All funds received by the ~~Division~~Department shall be deposited in the North
24 Carolina Veterans Home Trust Fund, except for any funds deposited into special agency
25 accounts established pursuant to ~~G.S. 165-48(d)(3).~~ G.S. 143B-1293(d)(3). The ~~Veterans~~
26 Veterans' Affairs Commission shall authorize the expenditure of all funds from the North
27 Carolina Veterans Home Trust Fund. The ~~Veterans~~Veterans' Affairs Commission may delegate
28 authority to the Assistant Secretary of Veterans Affairs for the expenditure of funds from the
29 North Carolina Veterans Home Trust Fund for operations of the State Veterans Nursing
30 Homes."

31 **SECTION 24.1.(rr)** G.S. 165-50, as recodified by subsection (k) of this section,
32 reads as rewritten:

33 **"§ 143B-1295. Contracted operation of homes.**

34 The ~~Veterans~~Veterans' Affairs Commission may contract with persons or other
35 nongovernmental entities to operate each State veterans home. Contracts for the procurement of
36 services to manage, administer, and operate any State veterans home shall be awarded on a
37 competitive basis through the solicitation of proposals and through the procedures established
38 by statute and the Division of Purchase and Contract. A contract may be awarded to the vendor
39 whose proposal is most advantageous to the State, taking into consideration cost, program
40 suitability, management plan, excellence of program design, key personnel, corporate or
41 company resources, financial condition of the vendor, experience and past performance, and
42 any other qualities deemed necessary by the ~~Veterans~~Veterans' Affairs Commission and set out
43 in the solicitation for proposals. Any contract awarded under this section shall not exceed five
44 years in length. The ~~Veterans~~Veterans' Affairs Commission is not required to select or
45 recommend the vendor offering the lowest cost proposal but shall select or recommend the
46 vendor who, in the opinion of the Commission, offers the proposal most advantageous to the
47 veterans and the State of North Carolina."

48 **SECTION 24.1.(ss)** G.S. 165-51, as recodified by subsection (k) of this section,
49 reads as rewritten:

50 **"§ 143B-1296. Program staff.**

1 The ~~Division~~Department shall appoint and fix the salary of an Administrative Officer for
2 the State veterans home program. The Administrative Officer shall be an honorably discharged
3 veteran who has served in active military service in the Armed Forces of the United States for
4 other than training purposes. The Administrative Officer shall direct the establishment of the
5 State veterans home program, coordinate the master planning, land acquisition, and
6 construction of all State veterans homes under the procedures of the Office of State
7 Construction, and oversee the ongoing operation of said veterans homes. The Division may hire
8 any required additional administrative staff to help with administrative and operational
9 responsibilities at each established State veterans home."

10 **SECTION 24.1.(tt)** G.S. 165-52, as recodified by subsection (k) of this section,
11 reads as rewritten:

12 **"§ 143B-1297. Admission and dismissal authority.**

13 The ~~Veterans~~Veterans' Affairs Commission shall have authority to determine
14 administrative standards for admission and dismissal, as well as the medical conditions, of all
15 persons admitted to and dismissed from any State veterans home, and to issue any necessary
16 rules, subject to the requirements set out in ~~G.S. 165-53~~.G.S. 143B-1298."

17 **SECTION 24.1.(uu)** G.S. 165-54, as recodified by subsection (k) of this section,
18 reads as rewritten:

19 **"§ 143B-1299. Deposit required.**

20 Each resident of any State veterans home shall pay to the ~~Division of Veterans~~
21 AffairsDepartment of Military and Veterans Affairs the cost of maintaining his or her residence
22 at the home. This deposit shall be placed in the North Carolina Veterans Home Trust Fund and
23 shall be in an amount and in the form prescribed by the ~~Veterans~~Veterans' Affairs Commission
24 in consultation with the Assistant Secretary for Veterans Affairs."

25 **SECTION 24.1.(vv)** G.S. 165-55, as recodified by subsection (k) of this section,
26 reads as rewritten:

27 **"§ 143B-1300. Report and budget.**

28 (a) The Assistant Secretary for Veterans Affairs shall report annually to the Secretary of
29 the Department of ~~Administration~~Military and Veterans Affairs on the activities of the State
30 Veterans Homes Program. This report shall contain an accounting of all monies received and
31 expended, statistics on residents in the homes during the year, recommendations to the
32 Secretary, the Governor, and the General Assembly as to the program, and such other matters
33 as may be deemed pertinent.

34 (b) The Assistant Secretary for Veterans Affairs, with the approval of the ~~Veterans~~
35 Veterans' Affairs Commission, shall compile an annual budget request for any State funding
36 needed for the anticipated costs of the homes, which shall be submitted to the Secretary of the
37 Department of ~~Administration~~Military and Veterans Affairs. State appropriated funds for
38 operational needs shall be made available only in the event that other sources are insufficient to
39 cover essential operating costs."

40 **SECTION 24.1.(ww)** This section becomes effective on January 1, 2016.

41
42 **RESTORE STATE CONTRIBUTION TO COUNTY VETERANS SERVICES**
43 **PROGRAMS**

44 **SECTION 24.2.** G.S. 143B-1211, as enacted by Section 24.1(b) of this act, is
45 amended by adding a new subdivision to read:

46 **"§ 143B-1211. Powers and duties of the Department of Military and Veterans Affairs.**

47 It shall be the duty of the Department of Military and Veterans Affairs to do all of the
48 following:

49 ...

50 (24) Contribute each fiscal year to each county that applies for it an amount for
51 the maintenance and operation of a county veterans services program.

1 Participating counties shall furnish the Department such reports,
2 accountings, and other information at such times and in such form as the
3 Department may require. The amount contributed to each county under this
4 subdivision shall be as follows:

5 a. If funds appropriated to the Department for contributions under this
6 subdivision exceed the total amount of county requests received by
7 December 31 of each year, the contribution to each county shall be
8 the full amount requested by each county.

9 b. If the funds appropriated to the Department for contributions under
10 this subdivision are insufficient to fund the full amount of county
11 requests received by December 31 of each year, the contribution to
12 each county shall be a pro rata share of the amount appropriated to
13 the Department for contributions under this section, up to the amount
14 requested by the county."

15 16 BRAC SPECIAL FUND

17 SECTION 24.3.(a) Part 1 of Article 14 of Chapter 143B of the General Statutes, as
18 enacted by Section 24.1 of this act, is amended by adding a new section to read:

19 "§ 143B-1214. Military Presence Stabilization Fund.

20 The Military Presence Stabilization Fund is established as a special fund in the Department
21 of Military and Veterans Affairs. Funds in the Military Presence Stabilization Fund shall be
22 used to fund actions designed to make the State less vulnerable to closure pursuant to federal
23 Base Realignment and Closure and related initiatives. The Secretary of Military and Veterans
24 Affairs may allocate funds in the Fund for this purpose."

25 SECTION 24.3.(b) Notwithstanding G.S. 143B-1214, the funds appropriated in
26 this act to the Military Presence Stabilization Fund for the 2015-2016 fiscal year shall not be
27 used to provide grants to local communities or military installations and shall only be used for
28 the following:

- 29 (1) Administrative expenses and reimbursements for members of the
30 Commission.
- 31 (2) Federal advocacy and lobbying support.
- 32 (3) Updates to strategic planning analysis and strategic plan.
- 33 (4) Economic modeling software and analyses.
- 34 (5) Compatible development mapping (red, yellow, green mapping)
- 35 (6) Public-public/public-private (P4) initiative.
- 36 (7) Identification and implementation of innovated measures to increase the
37 military value of installations.

38 SECTION 24.3.(c) The Department of Military and Veterans Affairs shall report to
39 the Joint Legislative Oversight Committee on General Government no later than December 1,
40 2015, on the expenditures from the Military Presence Stabilization Fund.

41 42 PART XXV. OFFICE OF THE STATE AUDITOR

43 44 STOP FRAUD AND ABUSE OF TAXPAYER DOLLARS

45 SECTION 25.1.(a) G.S. 143-746 reads as rewritten:

46 "§ 143-746. Internal auditing required.

47 ...

48 (e) Insufficient Personnel. – If a State agency has insufficient personnel to comply with
49 this section, the Office of State Budget and Management shall provide technical assistance.

50 (f) Reporting Fraudulent Activity. – If an internal audit conducted pursuant to this
51 section results in a finding that a private person or entity has received public funds as a result of

1 fraud, misrepresentation, or other deceptive acts or practices while doing business with the
2 State agency, the internal auditor shall submit a detailed written report of the finding, and any
3 additional necessary supporting documentation, to the State Purchasing Officer. A report
4 submitted under this subsection may include a recommendation that the private person or entity
5 be debarred from doing business with the State or a political subdivision thereof."

6 **SECTION 25.1.(b)** G.S. 147-64.6(c) is amended by adding a new subdivision to
7 read:

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

9 ...
10 (21) If an audit undertaken by the Auditor results in a finding that a private
11 person or entity has received public funds as a result of fraud,
12 misrepresentation, or other deceptive acts or practices while doing business
13 with the State or a political subdivision thereof, the Auditor shall submit a
14 detailed written report of the finding, and any additional necessary
15 supporting documentation, to the State Purchasing Officer or the appropriate
16 political subdivision official, as applicable. A report submitted under this
17 subsection may include a recommendation that the private person or entity
18 be debarred from doing business with the State or a political subdivision
19 thereof."

20 **SECTION 25.1.(c)** This section becomes effective October 1, 2015, and applies to
21 audits conducted or undertaken on or after that date.

22 **PART XXV-A. HOUSING FINANCE AGENCY**

23 **EXPAND COMMUNITY LIVING HOUSING FUND USES**

24 **SECTION 25A.1.** G.S. 122E-3.1 reads as rewritten:

25 **"§ 122E-3.1. Community Living Housing Fund.**

26 ...
27 (c) Use of Funds. – The North Carolina Housing Finance Agency, in consultation with
28 the Department of Health and Human Services, shall be responsible for administering the
29 Community Living Housing Fund. The monies in the Fund shall be available for expenditure
30 only upon an act of appropriation by the General Assembly and only for the following
31 purposes:

- 32 purposes:
- 33 (1) To provide permanent community-based housing in integrated settings
34 appropriate for individuals with severe mental illness and severe and
35 persistent mental illness.
 - 36 (2) To support an increase in the number of targeted units for individuals with
37 disabilities located in housing projects funded by the Housing Finance
38 Agency from ten percent (10%) to fifteen percent (15%). The additional
39 targeted units funded shall be made available to the Department of Health
40 and Human Services for use in the North Carolina Supportive Housing
41 Program under Article 1B of Chapter 122C of the General Statutes. Priority
42 for funding of the additional targeted units shall be given to units to be
43 located in catchment areas identified by the Department of Health and
44 Human Services, in consultation with the North Carolina Housing Finance
45 Agency and LMECOs, as having the greatest need for targeted units.
 - 46 (3) To provide property rehabilitation.
 - 47 (4) To recruit property owners who are willing to rent targeted units to
48 individuals with disabilities."
49
50

1 **USE S&P SETTLEMENT FUNDS TO SUPPORT WORKFORCE HOUSING LOAN**
2 **PROGRAM**

3 **SECTION 25A.2.** Of the funds received by the State pursuant to the settlement
4 agreement in *North Carolina ex rel. Cooper v. The McGraw-Hill Companies, Inc., and*
5 *Standard & Poor's Financial Services LLC*, No. 13CVS 001703, the sum of ten million dollars
6 (\$10,000,000) shall be used to provide loans under the Workforce Housing Loan Program of
7 the Housing Finance Agency for the 2015-2016 year, the sum of nine million three hundred
8 thousand dollars (\$9,300,000) shall be used to provide loans under the Workforce Housing
9 Loan Program of the Housing Finance Agency for the 2016-2017, and these funds are hereby
10 appropriated for those purposes.

11
12 **PART XXVI. OFFICE OF STATE HUMAN RESOURCES**

13
14 **PERSONAL SERVICES CONTRACTS/TEMPORARY SOLUTIONS**

15 **SECTION 26.2.(a)** Article 3 of Chapter 143 of the General Statutes is amended by
16 adding a new section to read:

17 **"§ 143-48.6. Personal services contracts subject to Article.**

18 (a) Requirement. – Notwithstanding any other provision of law, personal services
19 contracts for executive branch agencies shall be subject to the same requirements and
20 procedures as service contracts.

21 (b) Personal Services Contract Defined. – For purposes of this section, the term
22 "personal services contract" means a contract for services provided by a professional individual
23 as an independent contractor on a temporary or occasional basis.

24 (c) Rules Required. – The Department of Administration shall adopt rules consistent
25 with this section."

26 **SECTION 26.2.(b)** Part 4 of Article 14 of Chapter 143B of the General Statutes, as
27 enacted by this act, is amended by adding a new section to read:

28 **"§ 143B-1334A. Personal services contracts subject to Article.**

29 (a) Requirement. – Notwithstanding any other provision of law, information technology
30 personal services contracts for executive branch agencies shall be subject to the same
31 requirements and procedures as information technology service contracts, except as provided in
32 this section.

33 (b) Certain Approvals Required. – Notwithstanding any provision of law to the
34 contrary, no information technology personal services contract, nor any contract that provides
35 personnel to perform information technology functions regardless of the cost of the contract,
36 may be established or renewed without written approval from the Office of Information
37 Technology Services and the Office of State Budget and Management. To facilitate compliance
38 with this requirement, the Office of Information Technology Services shall develop and
39 document the following:

40 (1) Standards for determining whether it is more appropriate for an agency to
41 hire an employee or use the services of a vendor.

42 (2) A process to monitor all State agency information technology personal
43 services contracts, as well as any other State contracts providing personnel to
44 perform information technology functions.

45 (3) A process for obtaining approval of contractor positions.

46 (c) Creation of State Positions in Certain Cases. – The Office of Information
47 Technology Services shall review current information technology personal services contracts
48 on an ongoing basis and determine if each contractor is performing a function that could more
49 appropriately be performed by a State employee. Where the determination is made that a State
50 employee should be performing the function, the Office of Information Technology Services

1 shall work with the impacted agency and the Office of State Personnel to identify or create the
2 position.

3 (d) Compliance Audits Required. – The Office of Information Technology Services
4 shall conduct periodic audits of State agencies that are subject to this Article to determine the
5 degree to which those agencies are complying with the rules and procedures that govern
6 information technology personal services contracts.

7 (e) Reporting Required. – The Office of Information Technology Services shall report
8 biennially to the Joint Legislative Oversight Committee on Information Technology and the
9 Fiscal Research Division on all of the following:

10 (1) Its progress toward standardizing information technology personal services
11 contracts.

12 (2) The number of information technology service contractors in each State
13 agency, the cost for each, and the comparable cost, including benefits, of a
14 State employee serving in that capacity rather than a contractor.

15 (3) The results of the compliance audits conducted pursuant to subsection (d) of
16 this section.

17 (f) Information Technology Personal Services Contract Defined. – For purposes of this
18 section, the term "personal services contract" means a contract for services provided by a
19 professional individual as an independent contractor on a temporary or occasional basis.

20 (g) Rules Required. – The Office of Information Technology Services shall adopt rules
21 consistent with this section."

22 **SECTION 26.2.(c)** Personal services contracts and information technology
23 personal services contracts in effect on the effective date of this act shall be allowed to expire
24 in accordance with the terms of the contract. A personal services contract or an information
25 technology personal services contract that can be terminated at any time shall be reviewed
26 within 60 days of the effective date of this act and shall only be continued if the contract
27 complies with the requirements of G.S. 143-48.6 and G.S. 143B-1334A, as enacted by
28 subsections (a) and (b) of this section, respectively. A personal services contract or information
29 technology personal services contract entered into after the effective date of this act shall
30 comply with the requirements of G.S. 143-48.6 or G.S. 143B-1334A, as applicable.

31 **SECTION 26.2.(d)** G.S. 143-64.70 is repealed. The Office of State Budget and
32 Management shall notify State agencies of the repeal of G.S. 143-64.70 and about the new
33 requirements imposed by this act.

34 **SECTION 26.2.(e)** Article 1 of Chapter 126 of the General Statutes is amended by
35 adding a new section to read:

36 **"§ 126-6.3. Temporary employment needs of State agencies shall be met through the**
37 **Temporary Solutions Program.**

38 (a) Use of Temporary Solutions Required. – Notwithstanding G.S. 126-5 or any other
39 provision of law, all State agencies that utilize temporary employees to perform work that is not
40 information technology-related shall employ them through the Temporary Solutions Program
41 administered by the Office of State Human Resources. The Director of the Office of State
42 Human Resources may create exceptions to this requirement when doing so would be in the
43 best interests of the State in the sole discretion of the Director. An exception shall be invalid
44 unless it is in writing.

45 (b) Compliance Monitoring. – The Office of State Human Resources shall monitor the
46 employment of temporary employees by agencies subject to this section and shall report
47 biannually to the Joint Legislative Commission on Governmental Operations and to the Fiscal
48 Research Division on agency compliance with this section and policies and rules adopted
49 pursuant to it.

50 (c) State Agency Defined. – For purposes of this section, "State agency" means a unit
51 of the executive branch of State government, such as a department, an institution, a division, a

1 commission, a board, or a council, regardless of whether or not the agency is part of the
2 Council of State."

3 **SECTION 26.2.(f)** G.S. 126-4 is amended by adding a new subdivision to read:
4 **"§ 126-4. Powers and duties of State Human Resources Commission.**

5 Subject to the approval of the Governor, the State Human Resources Commission shall
6 establish policies and rules governing each of the following:

7 ...
8 (19) The implementation of G.S. 126-6.3 in a manner that is consistent across all
9 affected State agencies."

10 11 **PART XXVII. DEPARTMENT OF ADMINISTRATION**

12 13 **DOA PROVIDE ADMINISTRATIVE SUPPORT TO SEC FREE OF CHARGE**

14 **SECTION 27.1.** G.S. 138A-9 reads as rewritten:
15 **"§ 138A-9. Staff and offices.**

16 (a) The Commission may employ professional and clerical staff, including an executive
17 director.

18 (b) The Commission shall be located within the Department of Administration for
19 administrative purposes only, but shall exercise all of its powers, including the power to
20 employ, direct, and supervise all personnel, independently of the Secretary of Administration,
21 and is subject to the direction and supervision of the Secretary of Administration only with
22 respect to the management functions of coordinating and reporting. The Department shall
23 provide administrative support to the Commission free of charge."

24 25 **ALLOW FOR ELECTRONIC ADVERTISEMENT OF LEASE PROPOSALS**

26 **SECTION 27.2.** G.S. 146-25.1 reads as rewritten:
27 **"§ 146-25.1. Proposals to be secured for leases.**

28 (a) If pursuant to G.S. 146-25, the Department of Administration determines that it is in
29 the best interest of the State to lease or rent land and the rental is estimated to exceed
30 twenty-five thousand dollars (\$25,000) per year or the term will exceed three years, the
31 Department shall require the State agency desiring to rent land to prepare and submit for its
32 approval a set of specifications for its needs. Upon approval of specifications, the Department
33 shall prepare a public advertisement. ~~The State agency shall place such advertisement in a~~
34 ~~newspaper of general circulation in the county for proposals from prospective lessors of said~~
35 ~~land and shall make such other distribution thereof as the Department directs. The~~
36 ~~advertisement shall be run for at least five consecutive days, and shall provide that proposals~~
37 ~~shall be received for at least seven days from the date of the last advertisement in the State~~
38 ~~Property Office of the Department. The provisions of this section do not apply to property~~
39 ~~owned by governmental agencies and leased to other governmental agencies; advertisement and~~
40 ~~shall publish it by one or more of the following methods, as determined by the Department of~~
41 Administration:

42 (1) Placement in a newspaper of general circulation in the county. The
43 advertisement shall be run for at least five consecutive days and shall
44 provide that proposals shall be received for at least seven days from the date
45 of the last advertisement in the State Property Office.

46 (2) Through electronic means. If posted on a Web site, the advertisement shall
47 be accessible for at least five consecutive days and shall provide that
48 proposals shall be received for at least seven days from the date of the fifth
49 day in the State Property Office.

50 (3) Through such other methods of distribution as the Department of
51 Administration directs.

1 ...
2 (d) The provisions of this section do not apply to property owned by governmental
3 agencies and leased to other governmental agencies."
4

5 STREAMLINE SEIZED VEHICLE DISPOSAL

6 SECTION 27.3.(a) G.S. 20-28.2(a1) is amended by adding a new subdivision to
7 read:

8 "(a1) Definitions. – As used in this section and in G.S. 20-28.3, 20-28.4, 20-28.5, 20-28.7,
9 20-28.8, 20-28.9, 20-54.1, and 20-141.5, the following terms mean:

10 ...
11 (9) State Surplus Property Agency. – The Department of Administration."

12 SECTION 27.3.(b) G.S. 20-28.3 reads as rewritten:

13 "§ 20-28.3. **Seizure, impoundment, forfeiture of motor vehicles for offenses involving**
14 **impaired driving while license revoked or without license and insurance, and**
15 **for felony speeding to elude arrest.**

16 ...
17 (d) Custody of Motor Vehicle. – Unless the motor vehicle is towed pursuant to a
18 statewide or regional contract, or a contract with the county board of education, the seized
19 motor vehicle shall be towed by a commercial towing company designated by the law
20 enforcement agency that seized the motor vehicle. Seized motor vehicles not towed pursuant to
21 a statewide or regional contract or a contract with a county board of education shall be retrieved
22 from the commercial towing company within a reasonable time, not to exceed 10 business
23 days, by the county board of education or their agent who must pay towing and storage fees to
24 the commercial towing company when the motor vehicle is retrieved. If either a statewide or
25 regional contractor, or the county board of education, chooses to contract for local towing
26 services, all towing companies on the towing list for each law enforcement agency with
27 jurisdiction within the county shall be given written notice and an opportunity to submit
28 proposals prior to a contract for local towing services being awarded. The seized motor vehicle
29 is under the constructive possession of the county board of education for the county in which
30 the operator of the vehicle is charged at the time the vehicle is delivered to a location
31 designated by the county board of education or delivered to its agent pending release or sale, or
32 in the event a statewide or regional contract is in place, under the constructive possession of the
33 ~~Department of Public Instruction, State Surplus Property Agency~~ on behalf of the State at the
34 time the vehicle is delivered to a location designated by the ~~Department of Public Instruction~~
35 State Surplus Property Agency or delivered to its agent pending release or sale. Absent a
36 statewide or regional contract that provides otherwise, each county board of education may
37 elect to have seized motor vehicles stored on property owned or leased by the county board of
38 education and charge a reasonable fee for storage, not to exceed ten dollars (\$10.00) per
39 calendar day. In the alternative, the county board of education may contract with a commercial
40 towing and storage facility or other private entity for the towing, storage, and disposal of seized
41 motor vehicles, and a storage fee of not more than ten dollars (\$10.00) per calendar day may be
42 charged. Except for gross negligence or intentional misconduct, neither the State Surplus
43 Property Agency, the county board of education, or nor any of its their employees, shall not be
44 liable to the owner or lienholder for damage to or loss of the motor vehicle or its contents, or to
45 the owner of personal property in a seized vehicle, during the time the motor vehicle is being
46 towed or stored pursuant to this subsection.

47 ...
48 (i) Expedited Sale of Seized Motor Vehicles in Certain Cases. – In order to avoid
49 additional liability for towing and storage costs pending resolution of the criminal proceedings
50 of the defendant, the State Surplus Property Agency or county board of education may, after
51 expiration of 90 days from the date of seizure, or at any time with the consent of the owner, sell

1 any motor vehicle ~~having a fair market value of one thousand five hundred dollars (\$1,500) or~~
2 ~~less. The county board of education may also sell a motor vehicle, regardless of the fair market~~
3 ~~value, any time the outstanding towing and storage costs exceed eighty five percent (85%) of~~
4 ~~the fair market value of the vehicle, or with the consent of all the motor vehicle owners. seized~~
5 pursuant to this section and recover all costs associated with the sale. Any sale conducted
6 pursuant to this subsection shall be conducted in accordance with the provisions of
7 G.S. 20-28.5(a), G.S. 20-28.5(a) or G.S. 20-28.5(a1), as applicable, and the proceeds of the
8 sale, after the payment of outstanding towing and storage costs or reimbursement of towing and
9 storage costs paid by a person other than the defendant, shall be deposited with the clerk of
10 superior court. If an order of forfeiture is entered by the court, the court shall order the proceeds
11 held by the clerk to be disbursed as provided in G.S. 20-28.5(b). If the court determines that the
12 motor vehicle is not subject to forfeiture, the court shall order the proceeds held by the clerk to
13 be disbursed first to pay the sale, towing, and storage costs, second to pay outstanding liens on
14 the motor vehicle, and the balance to be paid to the motor vehicle owners.

15"

16 **SECTION 27.3.(c)** G.S. 20-28.5 reads as rewritten:

17 "**§ 20-28.5. Forfeiture of impounded motor vehicle or funds.**

18 (a) ~~Sale.~~Sale of Vehicle in Possession of County Board of Education. – A motor vehicle
19 in the possession or constructive possession of a county board of education ordered forfeited
20 and sold or a seized motor vehicle authorized to be sold pursuant to G.S. 20-28.3(i), shall be
21 sold at a public sale conducted in accordance with the provisions of Article 12 of Chapter 160A
22 of the General Statutes, applicable to sales authorized pursuant to G.S. 160A-266(a)(2), (3), or
23 (4), subject to the notice requirements of this subsection, and shall be conducted by the county
24 board of education or a person acting on its behalf. Notice of sale, including the date, time,
25 location, and manner of sale, shall be given by first-class mail to all motor vehicle owners of
26 the vehicle to be sold at the address shown by the records of the Division. Written notice of sale
27 shall also be given to all lienholders on file with the Division. Notice of sale shall be given to
28 the Division in accordance with the procedures established by the Division. Notices required to
29 be given under this subsection shall be mailed at least 10 days prior to the date of sale. A
30 lienholder shall be permitted to purchase the motor vehicle at any such sale by bidding in the
31 amount of its lien, if that should be the highest bid, without being required to tender any
32 additional funds, other than the towing and storage fees. The county board of education, or its
33 agent, shall not sell, give, or otherwise transfer possession of the forfeited motor vehicle to the
34 defendant, the motor vehicle owner who owned the motor vehicle immediately prior to
35 forfeiture, or any person acting on the defendant's or motor vehicle owner's behalf.

36 (a1) Sale of Vehicle in Possession of the State Surplus Property Agency. – A motor
37 vehicle in the possession or constructive possession of the State Surplus Property Agency
38 ordered forfeited and sold or a seized motor vehicle authorized to be sold pursuant to
39 G.S. 20-28.3(i) shall be sold at a public sale conducted in accordance with the provisions of
40 Article 3A of Chapter 143 of the General Statutes, subject to the notice requirements of this
41 subsection, and shall be conducted by the State Surplus Property Agency or a person acting on
42 its behalf. Notice of sale, including the date, time, location, and manner of sale, shall be given
43 by first-class mail to all motor vehicle owners of the vehicle to be sold at the address shown by
44 the records of the Division. Written notice of sale shall also be given to all lienholders on file
45 with the Division. Notice of sale shall be given to the Division in accordance with the
46 procedures established by the State Surplus Property Agency. Notices required to be given
47 under this subsection shall be mailed at least 10 days prior to the date of sale. A lienholder shall
48 be permitted to purchase the motor vehicle at any such sale by bidding in the amount of its lien,
49 if that should be the highest bid, without being required to tender any additional funds, other
50 than the towing and storage fees. The State Surplus Property Agency, or its agent, shall not sell,
51 give, or otherwise transfer possession of the forfeited motor vehicle to the defendant, the motor

1 vehicle owner who owned the motor vehicle immediately prior to forfeiture, or any person
2 acting on the defendant's or motor vehicle owner's behalf.

3 (b) Proceeds of Sale. – Proceeds of any sale conducted under this section,
4 G.S. 20-28.2(f)(5), or G.S. 20-28.3(e3)(3), shall first be applied to ~~the cost of sale~~ all costs
5 incurred by the State Surplus Property Agency or county board of education and then to satisfy
6 towing and storage costs. The balance of the proceeds of sale, if any, shall be used to satisfy
7 any other existing liens of record that were properly recorded prior to the date of initial seizure
8 of the vehicle. Any remaining balance shall be paid to the county school fund in the county in
9 which the motor vehicle was ordered forfeited. If there is more than one school board in the
10 county, then the net proceeds of sale, after reimbursement to the county board of education of
11 reasonable administrative costs incurred in connection with the forfeiture and sale of the motor
12 vehicle, shall be distributed in the same manner as fines and other forfeitures. The sale of a
13 motor vehicle pursuant to this section shall be deemed to extinguish all existing liens on the
14 motor vehicle and the motor vehicle shall be transferred free and clear of any liens.

15"

16 **SECTION 27.3.(d)** G.S. 20-28.9 reads as rewritten:

17 "**§ 20-28.9. Authority for the ~~Department of Public Instruction~~ State Surplus Property**
18 **Agency to administer a statewide or regional towing, storage, and sales**
19 **program for vehicles forfeited.**

20 (a) ~~The Department of Public Instruction~~ State Surplus Property Agency is authorized
21 to enter into a contract for a statewide service or contracts for regional services to tow, store,
22 process, maintain, and sell motor vehicles seized pursuant to G.S. 20-28.3. All motor vehicles
23 seized under G.S. 20-28.3 shall be subject to contracts entered into pursuant to this section.
24 Contracts shall be let by the ~~Department of Public Instruction~~ State Surplus Property Agency in
25 accordance with the provisions of Article 3 of Chapter 143 of the General Statutes. Nothing in
26 this section shall be construed to prohibit the State Surplus Property Agency from entering into
27 contracts pursuant to this section for some regions of the State while performing the work of
28 towing, storing, processing, maintaining, and selling motor vehicles seized pursuant to
29 G.S. 20-28.3 itself in other regions of the State. All contracts shall ensure the safety of the
30 motor vehicles while held and any funds arising from the sale of any seized motor vehicle. The
31 contract shall require the contractor to maintain and make available to the agency a
32 computerized up-to-date inventory of all motor vehicles held under the contract, together with
33 an accounting of all accrued charges, the status of the vehicle, and the county school fund to
34 which the proceeds of sale are to be paid. The contract shall provide that the contractor shall
35 pay the towing and storage charges owed on a seized vehicle to a commercial towing company
36 at the time the seized vehicle is obtained from the commercial towing company, with the
37 contractor being reimbursed this expense when the vehicle is released or sold. ~~The Department~~
38 State Surplus Property Agency shall not enter into any contract under this section under which
39 the State will be obligated to pay a deficiency arising from the sale of any forfeited motor
40 vehicle.

41 (b) ~~The Department,~~ State Surplus Property Agency, through its contractor or
42 contractors designated in accordance with subsection (a) of this section, may charge a
43 reasonable fee for storage not to exceed ten dollars (\$10.00) per calendar day for the storage of
44 seized vehicles pursuant to G.S. 20-28.3.

45 ~~In order to help defray the administrative costs associated with the administration of~~
46 ~~this section, the Department shall collect a ten dollar (\$10.00) administrative fee from a person~~
47 ~~to whom a seized vehicle is released at the time the motor vehicle is released and shall collect a~~
48 ~~ten dollar (\$10.00) administrative fee out of the proceeds of the sale of any forfeited motor~~
49 ~~vehicle. The funds collected under this subsection shall be paid to the General Fund."~~

50 **SECTION 27.3.(e)** G.S. 143-64.02 is amended by adding two new subdivisions to
51 read:

"§ 143-64.02. Definitions.

As used in Part 1 of this Article, except where the context clearly requires otherwise:

- (1) "Agency" means an existing department, institution, commission, committee, board, division, or bureau of the State.
- (2) "Nonprofit tax exempt organizations" means those nonprofit tax exempt medical institutions, hospitals, clinics, health centers, school systems, schools, colleges, universities, schools for the mentally retarded, schools for the physically handicapped, radio and television stations licensed by the Federal Communications Commission as educational radio or educational television stations, public libraries, and civil defense organizations, that have been certified by the Internal Revenue Service as tax-exempt nonprofit organizations under section 501(c)(3) of the United States Internal Revenue Code of 1954.
- (3) "Recyclable material" means a recyclable material, as defined in G.S. 130A-290, that the Secretary of Administration determines, consistent with G.S. 130A-309.14, to be a recyclable material.
- (4) "State owned" means supplies, materials, and equipment in the possession of the State of North Carolina and purchased with State funds, personal property donated to the State, or personal property purchased with other funds that give ownership to the State.
- (5) "Surplus property" means personal property that is no longer needed by a State agency."

SECTION 27.3.(f) G.S. 143-64.03 reads as rewritten:

"§ 143-64.03. Powers and duties of the State agency for surplus property.

(a) The State Surplus Property Agency is authorized and directed to:

- (1) Sell all State owned supplies, materials, and equipment that are surplus, obsolete, or ~~unused~~; unused and sell all seized vehicles and other conveyances that the State Surplus Property Agency is authorized to sell;
- (2) Warehouse such property; and
- (3) Distribute such property to tax-supported or nonprofit tax-exempt organizations.

(b) The State Surplus Property Agency is authorized and empowered to act as a clearinghouse of information for agencies and private nonprofit tax-exempt organizations, to locate property available for acquisition from State agencies, to ascertain the terms and conditions under which the property may be obtained, to receive requests from agencies and private nonprofit tax-exempt organizations, and transmit all available information about the property, and to aid and assist the agencies and private nonprofit tax-exempt organizations in transactions for the acquisition of State surplus property.

(c) The State agency for surplus property, in the administration of Part 1 of this Article, shall cooperate to the fullest extent consistent with the provisions of Part 1 of this Article, with the departments or agencies of the State.

(d) The State agency for surplus property may sell or otherwise dispose of surplus property, including motor vehicles, through an electronic auction service."

SECTION 27.3.(g) G.S. 143-64.05(a) reads as rewritten:

"§ 143-64.05. Service charge; receipts.

(a) The State agency for surplus property may assess and collect a service charge (i) for the acquisition, receipt, warehousing, distribution, or transfer of any State surplus property and property; (ii) for the transfer or sale of recyclable material; and (iii) for the towing, storing, processing, maintaining, and selling of motor vehicles seized pursuant to G.S. 20-28.3. The service charge authorized by this subsection does not apply to the transfer or sale of timber

1 on land owned by the Wildlife Resources Commission or the Department of Agriculture and
2 Consumer Services."
3

4 **DOROTHEA DIX MEMORIAL**

5 **SECTION 27.4.** The Department of Administration, in consultation with the
6 Department of Cultural Resources, shall appoint a task force to acquire historical documents,
7 photographs, and memorabilia relating to Dorothea Lynde Dix, mental health efforts in the
8 State, and the Dorothea Dix Hospital. The Department shall propose options to preserve a
9 building or provide a space on the Dorothea Dix campus for the purpose of permanently
10 exhibiting the acquired historical materials for the purposes of (i) memorializing and honoring
11 the unique history of Dorothea Dix Hospital and the story of Dorothea Dix and (ii) educating
12 the public about her advocacy for and innovations in the proper treatment of the mentally ill.
13 The Department shall submit a report of its proposed options to the Joint Legislative Oversight
14 Committee on Health and Human Services by April 1, 2016.
15

16 **VEHICLES ASSIGNED TO SECTION OF COMMUNITY CORRECTION/EXEMPT** 17 **FROM MINIMUM MILEAGE REQUIREMENT**

18 **SECTION 27.6.(a)** Exemption. – For the 2015-2017 fiscal biennium and
19 notwithstanding any law, rule, or regulation to the contrary, motor vehicles assigned from the
20 central motor fleet established under G.S. 143-341 to the Section of Community Corrections of
21 the Division of Adult Correction of the Department of Public Safety are exempt from any
22 requirement that the motor vehicle be driven a minimum number of miles per month or quarter.
23

24 **SECTION 27.6.(b)** Report on Exemption. – The Department of Administration
25 shall provide an interim report to the Joint Legislative Oversight Committee on General
26 Government and the Joint Legislative Oversight Committee on Justice and Public Safety by
27 March 1, 2016, and a final report to the Joint Legislative Oversight Committee on General
28 Government and the Joint Legislative Oversight Committee on Justice and Public Safety by
29 January 1, 2017. Each report shall include all of the following information:

- 30 (1) The number of motor vehicles assigned to the Section of Community
31 Corrections of the Division of Adult Correction of the Department of Public
32 Safety.
- 33 (2) The average miles per month the assigned motor vehicles were driven.
- 34 (3) The average costs per month for maintenance and motor fuel for the
35 assigned motor vehicles.
- 36 (4) The number of months in which an assigned motor vehicle was not driven at
37 all.

38 **SECTION 27.6.(c)** Report on Vehicles Managed. – Beginning on October 1, 2015,
39 and quarterly thereafter, the Department of Administration shall provide a report to the Joint
40 Legislative Oversight Committee on General Government and the Joint Legislative Oversight
41 Committee on Justice and Public Safety on the status of all motor vehicles managed by the
42 Department of Administration for the Department of Public Safety. The report shall include all
43 of the following information:

- 44 (1) The number of motor vehicles managed by the Department of
45 Administration for the Department of Public Safety.
- 46 (2) The condition of each motor vehicle, including the mileage on each motor
47 vehicle.
- 48 (3) The average amount of time taken to repair or replace a motor vehicle.
- 49 (4) The number and condition of any backup motor vehicles managed by the
50 Department of Administration and available for use by the Department of
51 Public Safety, including the location and condition of each motor vehicle.

ELIMINATE NC HUMAN RELATIONS COMMISSION

SECTION 27.7.(a) The following are repealed:

- (1) Part 9 of Article 9 of Chapter 143B of the General Statutes.
- (2) G.S. 99D-1(b1), 143-157.1(d)(14), and 143-422.3.
- (3) Chapter 41A of the General Statutes.

SECTION 27.7.(b) Notwithstanding any other provision of law, the Department of Justice shall assume and resolve all pending complaints filed with the North Carolina Human Relations Commission and shall be allowed to substitute for the North Carolina Human Relations Commission in any pending proceeding in the courts of this State.

SECTION 27.7.(c) This section does not affect the rights or liabilities of the State, a complainant, or another party arising under a statute repealed by this section before the effective date of its amendment or repeal, and the statutes that would be applicable but for this act remain applicable to those parties.

SECTION 27.7.(d) The North Carolina Human Relations Commission shall refer any complaints received after the enactment of this act to the Office of Fair Housing and Equal Opportunity with the United States Department of Housing and Urban Development if the Commission determines the complaint is unlikely to be resolved prior to July 1, 2016.

SECTION 27.7.(e) Subsection (d) of this section is effective when this act becomes law. The remainder of this section becomes effective July 1, 2016.

ELIMINATE LICENSE TO GIVE TRUST FUND COMMISSION

SECTION 27.8.(a) Subsection (c) of Section 5 of S.L. 2004-189, as amended by subsection (q) of Section 44.1 of S.L. 2005-276, reads as rewritten:

"SECTION 5.(c) The Division of Motor Vehicles shall retain a portion of five cents (\$0.05) collected for the issuance of each drivers license and duplicate license to offset the actual cost of developing and maintaining the online Organ Donor Internet site established pursuant to Section 1 of this act. ~~The remainder of the five cents (\$0.05) shall be credited to the License to Give Trust Fund established under G.S. 20-7.4 and shall be used for the purposes authorized under G.S. 20-7.4 and G.S. 20-7.5."~~

SECTION 27.8.(b) G.S. 20-7.4 through G.S. 20-7.6 are repealed.

SECTION 27.8.(c) Prior to the effective date of subsection (b) of this section, the License to Give Trust Fund Commission shall expend all funds in the License to Give Trust Fund for the purposes set forth in G.S. 20-7.4. Any unencumbered State funds remaining in the License to Give Trust Fund after the effective date of subsection (b) of this section shall be transferred to the Highway Fund.

SECTION 27.8.(d) Subsections (a), (c), and (d) of this section are effective when this act becomes law. The remainder of this section becomes effective October 1, 2015.

PART XXVII-A. OFFICE OF THE STATE CONTROLLER**OVERPAYMENTS AUDIT**

SECTION 27A.1.(a) During the 2015-2017 fiscal biennium, receipts generated by the collection of inadvertent overpayments by State agencies to vendors as a result of pricing errors, neglected rebates and discounts, miscalculated freight charges, unclaimed refunds, erroneously paid excise taxes, and related errors are to be deposited in Special Reserve Account 24172 as required by G.S. 147-86.22(c).

SECTION 27A.1.(b) For each year of the 2015-2017 fiscal biennium, five hundred thousand dollars (\$500,000) of the funds in the Special Reserve Account 24172 shall be used by the Office of the State Controller for data processing, debt collection, or e-commerce costs and are hereby appropriated for that purpose.

1 **SECTION 27A.1.(c)** All funds available in Special Reserve Account 24172 on
2 June 30 of each year of the 2015-2017 fiscal biennium shall revert to the General Fund on that
3 date.

4 **SECTION 27A.1.(d)** The State Controller shall report quarterly to the Joint
5 Legislative Commission on Governmental Operations and the Fiscal Research Division on the
6 revenue deposited into Special Reserve Account 24172 and the disbursement of that revenue.
7

8 **PART XXVIII. DEPARTMENT OF REVENUE**

9 10 **MODIFY COLLECTION ASSISTANCE FEE RULES**

11 **SECTION 28.2.** G.S. 105-243.1(e) reads as rewritten:

12 "(e) Use. – The fee is a receipt of the Department and must be applied to the costs of
13 collecting overdue tax debts. The proceeds of the fee must be credited to a special account
14 within the Department and may be expended only as provided in this subsection. The proceeds
15 of the fee may not be used for any purpose that is not directly and primarily related to
16 collecting overdue tax debts. The Department may apply the proceeds of the fee for the
17 purposes listed in this subsection. The remaining proceeds of the fee may be spent only
18 pursuant to appropriation by the General Assembly. The fee proceeds do not revert but remain
19 in the special account until spent for the costs of collecting overdue tax debts. The Department
20 and the Office of State Budget and Management must account for all expenditures using
21 accounting procedures that clearly distinguish costs allocable to collecting overdue tax debts
22 from costs allocable to other purposes and must demonstrate that none of the fee proceeds are
23 used for any purpose other than collecting overdue tax debts.

24 The Department may apply the fee proceeds for the following purposes:

25 ...

- 26 (4) To pay for postage or other delivery charges for correspondence directly and
27 primarily relating to collecting overdue tax debts, not to exceed ~~five hundred~~
28 ~~thousand dollars (\$500,000)~~ one million dollars (\$1,000,000) a year.

29 "
30

31 **STATE AGENCY/ENHANCED DEBT COLLECTION**

32 **SECTION 28.3.** Article 1 of Chapter 105A of the General Statutes reads as
33 rewritten:

34 **"Chapter 105A.**

35 **"Setoff Debt Collection Act.**

36 "Article 1.

37 "In General.

38 **"§ 105A-1. Purposes.**

39 The purpose of this Chapter is to establish as policy that all claimant agencies and the
40 Department of Revenue shall cooperate in identifying debtors who owe money to the State or
41 to a local government through their various agencies and who qualify for refunds from the
42 Department of Revenue. It is also the intent of this Chapter that procedures be established for
43 setting off against any refund the sum of any debt owed to the State or to a local government.
44 Furthermore, it is the legislative intent that this Chapter be liberally construed so as to
45 effectuate these purposes as far as legally and practically possible.

46 **"§ 105A-2. Definitions.**

47 The following definitions apply in this Chapter:

- 48 (1) Claimant agency. – Either of the following:

49 a. A State agency.

50 b. A local agency acting through a clearinghouse or an organization
51 pursuant to G.S. 105A-3(b1).

- 1 c. A federal agency.
2 (2) Debt. – Any of the following, except as limited in sub-subdivision (f.) of this
3 subdivision:
4 a. A sum owed to a claimant agency that has accrued through contract,
5 subrogation, tort, operation of law, or any other legal theory
6 regardless of whether there is an outstanding judgment for the sum.
7 b. A sum a claimant agency is authorized or required by law to collect,
8 such as child support payments collectible under Title IV, Part D of
9 the Social Security Act.
10 c. A sum owed as a result of an intentional program violation or a
11 violation due to inadvertent household error under the Food and
12 Nutrition Services Program enabled by Part 5 of Article 2 of Chapter
13 108A of the General Statutes.
14 d. Reserved for future codification purposes.
15 e. A sum owed as a result of having obtained public assistance
16 payments under any of the following programs through an intentional
17 false statement, intentional misrepresentation, intentional failure to
18 disclose a material fact, or inadvertent household error:
19 1. The Work First Program provided in Article 2 of Chapter
20 108A of the General Statutes.
21 2. The State-County Special Assistance Program enabled by
22 Part 3 of Article 2 of Chapter 108A of the General Statutes.
23 3. A successor program of one of these programs.
24 f. For any school of medicine, clinical program, facility, or practice
25 affiliated with one of the constituent institutions of The University of
26 North Carolina that provides medical care to the general public and
27 for The University of North Carolina Health Care System and other
28 persons or entities affiliated with or under the control of The
29 University of North Carolina Health Care System, the term "debt" is
30 limited to the sum owed to one of these entities by law or by contract
31 following adjudication of a claim resulting from an individual's
32 receipt of hospital or medical services at a time when the individual
33 was covered by commercial insurance, Medicaid, Health Choice,
34 Medicare, Medicare Advantage, a Medicare supplement plan, or any
35 other government insurance.
36 g. A sum owed to the United States government or its federal agencies.
37 (3) Debtor. – A person who owes a debt.
38 (4) Department. – The Department of Revenue.
39 (5) Federal official. – A unit or official of the federal government charged with
40 the collection of nontax debts payable to the federal government pursuant to
41 31 U.S.C. § 3716.
42 (6) Local agency. – Any of the following:
43 a. A county, to the extent it is not considered a State agency.
44 b. A municipality.
45 c. A water and sewer authority created under Article 1 of Chapter 162A
46 of the General Statutes.
47 d. A regional joint agency created by interlocal agreement under Article
48 20 of Chapter 160A of the General Statutes between two or more
49 counties, cities, or both.
50 e. A public health authority created under Part 1B of Article 2 of
51 Chapter 130A of the General Statutes or other authorizing legislation.

- 1 f. A metropolitan sewerage district created under Article 5 of Chapter
2 162A of the General Statutes.
- 3 g. A sanitary district created under Part 2 of Article 2 of Chapter 130A
4 of the General Statutes.
- 5 h. A housing authority created under Chapter 157 of the General
6 Statutes, provided that the debt owed to a housing authority has been
7 reduced to a final judgment in favor of the housing authority.
- 8 i. A regional solid waste management authority created under Article
9 22 of Chapter 153A of the General Statutes.
- 10 (7) Net proceeds collected. – Gross proceeds collected through setoff against a
11 debtor's refund or nontax payment minus the collection assistance fees
12 provided in G.S. 105A-13.
- 13 (7a) Nontax payment. – A payment, including an expense reimbursement, made
14 by the State to a person. The term does not include a person's salary, wages,
15 or pension or a refund.
- 16 (7b) Person. – Defined in G.S. 105-228.90.
- 17 (8) Refund. – A debtor's North Carolina tax refund.
- 18 (9) State agency. – Any of the following:
- 19 a. A unit of the executive, legislative, or judicial branch of State
20 government.
- 21 b. A local agency, to the extent it administers a program supervised by
22 the Department of Health and Human Services or it operates a Child
23 Support Enforcement Program, enabled by Chapter 110, Article 9,
24 and Title IV, Part D of the Social Security Act.
- 25 c. A community college.

26 **"§ 105A-3. Remedy additional; mandatory State usage; optional local usage; obtaining**
27 **identifying information; registration.**

28 (a) Remedy Additional. – The collection remedy under this Chapter is in addition to
29 and not in substitution for any other remedy available by law.

30 (b) Mandatory State Usage. – A State agency must submit a debt owed to it for
31 collection under this Chapter unless the State Controller has waived this requirement or the
32 State agency has determined that the validity of the debt is legitimately in dispute, an
33 alternative means of collection is pending and believed to be adequate, or such a collection
34 attempt would result in a loss of federal funds. The State Controller may waive the requirement
35 for a State agency, other than the Department of Health and Human Services or a county acting
36 on behalf of that Department, to submit a debt owed to it for collection under this Chapter if the
37 State Controller finds that collection by this means would not be practical or cost effective. A
38 waiver may apply to all debts owed a State agency or a type of debt owed a State agency.

39 (b1) Optional Local Usage. – A local agency may submit a debt owed to it for collection
40 under this Chapter. A local agency that decides to submit a debt owed to it for collection under
41 this Chapter must establish the debt by following the procedure set in G.S. 105A-5 and must
42 submit the debt through one of the following:

- 43 (1) A clearinghouse that is established pursuant to an interlocal agreement
44 adopted under Article 20 of Chapter 160A of the General Statutes and has
45 agreed to submit debts on behalf of any requesting local agency.
- 46 (2) The North Carolina League of Municipalities.
- 47 (3) The North Carolina Association of County Commissioners.

48 (c) Identifying Information. – All claimant agencies shall whenever possible obtain the
49 full name, social security number or federal identification number, address, and any other
50 identifying information required by the Department from any person for whom the agencies

1 provide any service or transact any business and who the claimant agencies can foresee may
2 become a debtor under this Chapter.

3 (d) Registration and Reports. – A State agency must register with the Department and
4 with the State Controller. Every State agency must report annually to the State Controller the
5 amount of debts owed to the agency for which the agency did not submit a claim for setoff and
6 the reason for not submitting the claim.

7 A clearinghouse or an organization that submits debts on behalf of a local agency must
8 register with the Department. Once a clearinghouse registers with the Department under this
9 subsection, no other clearinghouse may register to submit debts for collection under this
10 Chapter.

11 **"§ 105A-4. Minimum debt and ~~refund~~ refund or nontax payment.**

12 This Chapter applies only to a debt that is at least fifty dollars (\$50.00) and to a refund or
13 nontax payment that is at least this same amount.

14 **"§ 105A-5. Local agency notice, hearing, and decision.**

15 (a) Prerequisite. – A local agency may not submit a debt for collection under this
16 Chapter until it has given the notice required by this section and the claim has been finally
17 determined as provided in this section.

18 (b) Notice. – A local agency must send written notice to a debtor that the agency
19 intends to submit the debt owed by the debtor for collection by setoff. The notice must explain
20 the basis for the agency's claim to the debt, that the agency intends to apply the debtor's refund
21 or nontax payment against the debt, and that a collection assistance fee ~~of fifteen dollars~~
22 ~~(\$15.00)~~ provided in G.S. 105A-13 will be added to the debt if it is submitted for setoff. The
23 notice must also inform the debtor that the debtor has the right to contest the matter by filing a
24 request for a hearing with the local agency, must state the time limits and procedure for
25 requesting the hearing, and must state that failure to request a hearing within the required time
26 will result in setoff of the debt.

27 (c) Administrative Review. – A debtor who decides to contest a proposed setoff must
28 file a written request for a hearing with the local agency within 30 days after the date the local
29 agency mails a notice of the proposed action to the debtor. A request for a hearing is considered
30 to be filed when it is delivered for mailing with postage prepaid and properly addressed. The
31 governing body of the local agency or a person designated by the governing body must hold the
32 hearing.

33 If the debtor disagrees with the decision of the governing body or the person designated by
34 the governing body, the debtor may file a petition for a contested case under Article 3 of
35 Chapter 150B of the General Statutes. The petition must be filed within 30 days after the debtor
36 receives a copy of the local decision. Notwithstanding the provisions of G.S. 105-241.21, a
37 local agency is considered an agency for purposes of contested cases and appeals under this
38 Chapter.

39 In a hearing under this section, an issue that has previously been litigated in a court
40 proceeding cannot be considered.

41 (d) Decision. – A decision made after a hearing under this section must determine
42 whether a debt is owed to the local agency and the amount of the debt.

43 (e) Return of Amount Set Off. – If a local agency submits a debt for collection under
44 this Chapter without sending the notice required by subsection (b) of this section, the agency
45 must send the taxpayer the entire amount set off plus the collection assistance fees provided in
46 G.S. 105A-13. Similarly, if a local agency submits a debt for collection under this Chapter after
47 sending the required notice but before final determination of the debt and a decision finds that
48 the local agency is not entitled to any part of the amount set off, the agency must send the
49 taxpayer the entire amount set off plus the collection assistance fees provided in G.S. 105A-13.
50 That portion of the amount returned that reflects the collection assistance fees must be paid
51 from the local agency's funds.

1 If a local agency submits a debt for collection under this Chapter after sending the required
2 notice and the net proceeds collected that are credited to the local agency for the debt exceed
3 the amount of the debt, the local agency must send the balance to the debtor. No part of the
4 collection assistance fees provided in G.S. 105A-13 may be returned when a notice was sent
5 and a debt is owed but the debt is less than the amount set off.

6 Interest accrues on the amount of a refund returned to a taxpayer under this subsection in
7 accordance with G.S. 105-241.21. A local agency that returns a refund to a taxpayer under this
8 subsection must pay from the local agency's funds any interest that has accrued since the fifth
9 day after the Department mailed the notice of setoff to the taxpayer.

10 **"§ 105A-6. Procedure Department to follow in making setoff.**

11 (a) Notice to Department. – A claimant agency seeking to attempt collection of a debt
12 through setoff must notify the Department in writing and supply information necessary to
13 identify the debtor whose refund or nontax payment is sought to be set off. The claimant
14 agency may include with the notification the date, if any, that the debt is expected to expire.
15 The agency must notify the Department in writing when a debt has been paid or is no longer
16 owed the agency.

17 (b) Setoff by Department. – The Department, upon receipt of notification, must
18 determine each year whether the debtor to the claimant agency is entitled to a refund ~~of~~ or
19 nontax payment and whether the amount is at least fifty dollars ~~(\$50.00) from the Department.~~
20 (\$50.00). Upon determination by the Department that a debtor specified by a claimant agency
21 qualifies for such a ~~refund,~~ refund or nontax payment, the Department must set off the debt
22 against the refund or nontax payment to which the debtor would otherwise be entitled and must
23 refund any remaining balance to the debtor. The Department must mail the debtor written
24 notice that the setoff has occurred and must credit the net proceeds collected to the claimant
25 agency. If the claimant agency is a State agency, that agency must credit the amount received to
26 a nonreverting trust account and must follow the procedure set in G.S. 105A-8.

27 **"§ 105A-6.1. State Reciprocal Offset Program.**

28 (a) Agreement. – The Department is authorized to enter into an agreement with the
29 Secretary of the Treasury to participate in the State Reciprocal Offset Program pursuant to 31
30 U.S.C. § 3716 for the collection of any debts owed to the State or to State agencies from federal
31 payments to vendors, contractors, and taxpayers. The agreement may provide for the United
32 States to submit nontax debts owed to federal agencies for offset against State payments
33 otherwise due and owing to taxpayers, vendors, and contractors providing goods or services to
34 the State, its departments, agencies, or institutions.

35 (b) Federal Certification. – Pursuant to the agreement authorized in subsection (a) of
36 this section, a federal official may certify to the Department the existence of a person's
37 delinquent, nontax debt owed by the person to the federal government. To accept the
38 certification provided by the federal official, the certification must include the name of the
39 person, the person's Social Security number or federal tax identification number, and the
40 amount of the person's nontax debt and may include any other information pursuant to the
41 agreement authorized herein.

42 (c) Offset. – Upon receiving a federal certification complying with subsection (b) of
43 this section and a request by the federal official that the Department withhold a refund or
44 nontax payment, the following provisions, as required or permitted by State law, federal law, or
45 the offset agreement, apply:

46 (1) The Department may determine if a person for whom the federal
47 certification is received is due a refund or nontax payment.

48 (2) If the person for whom the federal certification is received is due a refund or
49 nontax payment, the Department shall (i) withhold the refund or nontax
50 payment due, (ii) notify the person of the amount withheld in the manner
51 required by the offset agreement, and (iii) remit to the federal official the

1 lesser of the entire amount of the refund or nontax payment or the amount
2 certified.

3 (3) If the amount certified is less than the refund or nontax payment, the
4 Department shall pay the excess to the person less the collection assistance
5 fee provided in G.S. 105A-13.

6 (d) State Certification. – As permitted by State law, federal law, and the offset
7 agreement, the Department may certify to a federal official a person's delinquent debt owed to
8 the State by providing the federal official the name of the person, the person's Social Security
9 number or tax identification number, the amount of the debt due the State, and any other
10 information required by the offset agreement. The Department may request that the federal
11 official withhold any federal vendor or other federal payment pursuant to the offset agreement
12 to which the person is entitled.

13 (e) Proceeds Retention. – The retention of a portion of the proceeds of any federal
14 administrative setoff pursuant to 31 C.F.R. § 285.6 does not affect the provisions of this
15 section.

16 ...

17 "**§ 105A-8. State agency notice, hearing, decision, and refund of setoff.**

18 (a) Notice. – Within 10 days after a State agency receives a refund or nontax payment
19 of a debtor, the agency must send the debtor written notice that the agency has received the
20 debtor's ~~refund~~ refund or nontax payment. The notice must explain the debt that is the basis for
21 the agency's claim to the debtor's refund or nontax payment and that the agency intends to
22 apply the refund or nontax payment against the debt. The notice must also inform the debtor
23 that the debtor has the right to contest the matter by filing a request for a hearing, must state the
24 time limits and procedure for requesting the hearing, and must state that failure to request a
25 hearing within the required time will result in setoff of the debt. A State agency that does not
26 send a debtor a notice within the time required by this subsection must refund the amount set
27 off plus the collection assistance fee, in accordance with subsection (d) of this section.

28 (b) Hearing. – A hearing on a contested claim of a State agency, except a constituent
29 institution of The University of North Carolina or the Division of Employment Security, must
30 be conducted in accordance with Article 3 of Chapter 150B of the General Statutes. A hearing
31 on a contested claim of a constituent institution of The University of North Carolina must be
32 conducted in accordance with administrative procedures approved by the Attorney General. A
33 hearing on a contested claim of the Division of Employment Security must be conducted in
34 accordance with rules adopted by that Division. A request for a hearing on a contested claim of
35 any State agency must be filed within 30 days after the State agency mails the debtor notice of
36 the proposed setoff. A request for a hearing is considered to be filed when it is delivered for
37 mailing with postage prepaid and properly addressed. In a hearing under this section, an issue
38 that has previously been litigated in a court proceeding cannot be considered.

39 (c) Decision. – A decision made after a hearing under this section must determine
40 whether a debt is owed to the State agency and the amount of the debt.

41 (d) Return of Amount Set Off. – If a State agency fails to send the notice required by
42 subsection (a) of this section within the required time or a decision finds that a State agency is
43 not entitled to any part of an amount set off, the agency must send the taxpayer the entire
44 amount set off plus the collection assistance fee retained by the Department. That portion of the
45 amount returned that reflects the collection assistance fee must be paid from the State agency's
46 funds.

47 If a debtor owes a debt to a State agency and the net proceeds credited to the State agency
48 for the debt exceed the amount of the debt, the State agency must send the balance to the
49 debtor. No part of the collection assistance fee retained by the Department may be returned
50 when a debt is owed but it is less than the amount set off.

1 Interest accrues on the amount of a refund returned to a taxpayer under this subsection in
2 accordance with G.S. 105-241.21. A State agency that returns a refund to a taxpayer under this
3 subsection must pay from the State agency's funds any interest that has accrued since the fifth
4 day after the Department mailed the notice of setoff to the taxpayer.

5 **"§ 105A-9. Appeals from hearings.**

6 Appeals from hearings allowed under this Chapter, other than those conducted by the
7 Division of Employment Security, shall be in accordance with the provisions of Chapter 150B
8 of the General Statutes, the Administrative Procedure Act, except that the place of initial
9 judicial review shall be the superior court for the county in which the debtor resides. Appeals
10 from hearings allowed under this Chapter that are conducted by the Division of Employment
11 Security shall be in accordance with the provisions of Chapter 96 of the General Statutes.

12 ...

13 **"§ 105A-12. Priorities in claims to setoff.**

14 The Department has priority over all other claimant agencies for collection by setoff
15 whenever it is a competing agency for a ~~refund~~-refund or nontax payment. State agencies have
16 priority over federal or local agencies for collection by setoff. When there are multiple claims
17 by State agencies other than the Department, the claims have priority based on the date each
18 agency registered with the Department under G.S. 105A-3. When there are multiple claims by
19 two or more organizations submitting debts on behalf of federal or local agencies, the claims
20 have priority based on the date each organization registered with the Department under
21 G.S. 105A-3. When there are multiple claims among federal or local agencies whose debts are
22 submitted by the same organization, the claims have priority based on the date each federal or
23 local agency requested the organization to submit debts on its behalf.

24 **"§ 105A-13. Collection assistance fees.**

25 (a) State Setoff. – ~~To~~Except as provided in subsection (b1) of this section, to recover
26 the costs incurred by the Department in collecting debts under this Chapter, a collection
27 assistance fee of five dollars (\$5.00) is imposed on each debt collected through setoff. The
28 Department must collect this fee as part of the debt and retain it. The collection assistance fee
29 shall not be added to child support debts or collected as part of child support debts. Instead, the
30 Department shall retain from collections under Division II of Article 4 of Chapter 105 of the
31 General Statutes the cost of collecting child support debts under this Chapter.

32 (b) Repealed by Session Laws 2001-380, s. 3, effective November 1, 2001.

33 (b1) Federal Debts. – To recover the costs incurred by the Department in collecting debts
34 on behalf of a federal agency under this Chapter, a collection assistance fee equal to the fee
35 charged by the federal government for similar debt collection efforts is imposed on each debt
36 collected through setoff. The Department must collect this fee as part of the debt and retain it.

37 (c) Local Debts. – To recover the costs incurred by local agencies in submitting debts
38 for collection under this Chapter, a local collection assistance fee of fifteen dollars (\$15.00) is
39 imposed on each local agency debt submitted under G.S. 105A-3(b1) and collected through
40 setoff. The Department must collect this fee as part of the debt and remit it to the clearinghouse
41 that submitted the debt. The local collection assistance fee does not apply to child support
42 debts.

43 (d) Priority. – If the Department is able to collect only part of a debt through setoff, the
44 collection assistance fee provided in subsection (a) of this section has priority over the local
45 collection assistance fee and over the remainder of the debt. The local collection assistance fee
46 has priority over the remainder of the debt.

47 **"§ 105A-14. Accounting to the claimant agency; credit to debtor's obligation.**

48 (a) Simultaneously with the transmittal of the net proceeds collected to a claimant
49 agency, the Department must provide the agency with an accounting of the setoffs for which
50 payment is being made. The accounting must whenever possible include the full names of the
51 debtors, the debtors' social security numbers or federal identification numbers, the gross

1 proceeds collected per setoff, the net proceeds collected per setoff, and the collection assistance
2 fee added to the debt and collected per setoff.

3 (b) Upon receipt by a claimant agency of net proceeds collected on the claimant
4 agency's behalf by the Department, a final determination of the claim if it is a State agency
5 claim, and an accounting of the proceeds as specified under this section, the claimant agency
6 must credit the debtor's obligation with the net proceeds collected.

7 **"§ 105A-15. Confidentiality exemption; nondisclosure.**

8 (a) Notwithstanding G.S. 105-259 or any other provision of law prohibiting disclosure
9 by the Department of the contents of taxpayer records or information and notwithstanding any
10 confidentiality statute of any claimant agency, the exchange of any information among the
11 Department, the claimant agency, the organization submitting debts on behalf of a local agency,
12 and the debtor necessary to implement this Chapter is lawful.

13 (b) The information a claimant agency or an organization submitting debts on behalf of
14 a local agency obtains from the Department in accordance with the exemption allowed by
15 subsection (a) may be used by the agency or organization only in the pursuit of its debt
16 collection duties and practices and may not be disclosed except as provided in G.S. 105-259,
17 153A-148.1, or 160A-208.1.

18 **"§ 105A-16. Rules.**

19 The Secretary of Revenue may adopt rules to implement this Chapter. The State Controller
20 may adopt rules to implement this Chapter."
21

22 **PART XXIX. DEPARTMENT OF TRANSPORTATION**

23
24 **CASH FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATION**

25 **SECTION 29.1.(a)** The General Assembly authorizes and certifies anticipated
26 revenues for the Highway Fund as follows:

| | | |
|----|---------------------------|-------------------|
| 27 | For Fiscal Year 2017-2018 | \$1,960.9 million |
| 28 | For Fiscal Year 2018-2019 | \$1,995.5 million |
| 29 | For Fiscal Year 2019-2020 | \$2,031.0 million |
| 30 | For Fiscal Year 2020-2021 | \$2,059.3 million |

31 **SECTION 29.1.(b)** The General Assembly authorizes and certifies anticipated
32 revenues for the Highway Trust Fund as follows:

| | | |
|----|---------------------------|-------------------|
| 33 | For Fiscal Year 2017-2018 | \$1,365.7 million |
| 34 | For Fiscal Year 2018-2019 | \$1,389.0 million |
| 35 | For Fiscal Year 2019-2020 | \$1,417.6 million |
| 36 | For Fiscal Year 2020-2021 | \$1,445.9 million |

37 **SECTION 29.1.(c)** The Department of Transportation, in collaboration with the
38 Office of State Budget and Management, shall develop a four-year revenue forecast. The first
39 fiscal year in the four-year forecast shall be the 2021-2022 fiscal year. The four-year revenue
40 forecast developed under this subsection shall be used (i) to develop the four-year cash flow
41 estimates included in the biennial budgets, (ii) to develop the Strategic Transportation
42 Improvement Program, and (iii) by the Department of the State Treasurer to compute
43 transportation debt capacity.
44

45 **SMALL CONSTRUCTION, CONTINGENCY, AND ECONOMIC DEVELOPMENT**
46 **FUNDS**

47 **SECTION 29.2.(a)** Of the funds appropriated in this act to the Department of
48 Transportation:

- 49 (1) Two million five hundred thousand dollars (\$2,500,000) in nonrecurring
50 funds shall be allocated in each fiscal year of the biennium for small
51 construction projects recommended by the Chief Engineer in consultation

with the Chief Operating Officer and approved by the Secretary of Transportation. These funds shall be allocated equally in each fiscal year of the biennium among the 14 Highway Divisions for small construction projects.

- (2) Twelve million dollars (\$12,000,000) shall be allocated statewide in each fiscal year of the biennium for rural or small urban highway improvements and related transportation enhancements to public roads and public facilities, industrial access roads, and spot safety projects, including pedestrian walkways that enhance highway safety. Projects funded pursuant to this subdivision shall be approved by the Secretary of Transportation.

SECTION 29.2.(b) The Department of Transportation shall report to the members of the General Assembly on projects funded pursuant to this section in each member's district prior to construction. The Department shall make a quarterly comprehensive report on the use of these funds to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division.

SECTION 29.2.(c) The funds appropriated in this act to the Economic Development fund shall be used for prioritized transportation improvements and infrastructure that expedite commercial growth as well as either job creation or job retention. Projects funded under this subsection shall be jointly approved by the Secretary of Transportation and the Secretary of Commerce in accordance with the guidelines and procedures developed under subsection (c) of Section 34.7 of S.L. 2013-360, as amended by Section 34.29 of S.L. 2014-100.

REPAIRS AND RENOVATIONS

SECTION 29.2A. There is appropriated from the Highway Fund to the Department of Transportation for the 2015-2017 fiscal biennium the following amounts for repairs and renovations:

| Repairs and Renovations – Highway Fund | 2015-2016 | 2016-2017 |
|---|--------------------|--------------------|
| High-Rise Code Compliance Renovations | \$957,000 | \$957,000 |
| Roof Repairs & Replacements – Statewide | 3,450,000 | 3,450,000 |
| Chilled Water Piping and Insulation Replacement | 612,700 | 612,700 |
| TBC: Annex Building Window Replacement | 0 | 724,000 |
| DOT Elevator Modernization | 0 | 251,000 |
| DMV Field Facilities – Window Replacement Statewide | 0 | 341,000 |
| Rowan County Renovation and Addition | 0 | 630,000 |
| TOTAL REPAIRS AND RENOVATIONS – HIGHWAY FUND | \$5,019,700 | \$6,965,700 |

REQUIRE COUNTY OR MUNICIPALITY TO PAY COSTS ASSOCIATED WITH REQUESTED PROJECT IMPROVEMENTS

SECTION 29.5.(a) G.S. 136-66.3(e) reads as rewritten:

1 "(e) Authorization to Participate in Project Additions. – Pursuant to an agreement with
2 the Department of Transportation, a county or municipality ~~may~~shall reimburse the
3 Department of Transportation for the cost of all ~~improvements~~improvements requested by the
4 county or municipality, including additional right-of-way, for a street, highway improvement
5 projects, or other transportation system improvements approved by the Board of Transportation
6 under G.S. 143B-350(f)(4), that are in addition to those improvements that the Department of
7 Transportation would normally include in the project. Requests for safety enhancements or
8 increases to mobility shall not be considered improvements subject to the requirement of this
9 subsection unless the increase or enhancement is in excess of the standard required by law."

10 **SECTION 29.5.(b)** This section is effective when it becomes law and applies to
11 agreements entered into on or after that date.

12 **BOARD OF TRANSPORTATION/OUT-OF-STATE TRAVEL**

13 **SECTION 29.5A.** Expenditures for out-of-State travel by the Board of
14 Transportation for the 2015-2016 fiscal year and each subsequent fiscal year shall not exceed
15 twenty-five thousand dollars (\$25,000).
16

17 **DEPARTMENT OF TRANSPORTATION OUT-OF-STATE TRAVEL**

18 **SECTION 29.7.** Section 34.5 of S.L. 2014-100 reads as rewritten:

19 "**SECTION 34.5.** Expenditures for out-of-state travel by the Department of Transportation
20 for the 2014-2015 fiscal year and ~~at each~~ subsequent fiscal ~~years~~year shall not exceed the
21 amount expended during the 2009-2010 fiscal year. For purposes of this section, "expenditures
22 for out-of-state travel" includes transportation, conference, registration, and education
23 expenses, lodging, and meals for Department of Transportation employees traveling outside of
24 the ~~State~~State, but does not include expenditures charged to federal projects."
25

26 **DOT/OUTSIDE COUNSEL**

27 **SECTION 29.8.(a)** Section 34.27 of S.L. 2013-360, as amended by Section
28 34.24(a) of S.L. 2014-100, is repealed.

29 **SECTION 29.8.(b)** Subsections (b), (c), and (e) of Section 34.24 of S.L. 2014-100
30 are repealed.

31 **SECTION 29.8.(c)** G.S. 136-103.1 is repealed.

32 **SECTION 29.8.(d)** Article 2 of Chapter 136 of the General Statutes is amended by
33 adding a new section to read:

34 **"§ 136-18.03. Outside counsel.**

35 (a) Intent. – It is the intent of the General Assembly that the Department of
36 Transportation exercise the authority granted by this section to maximize operational and
37 project delivery benefits attributed to the avoidance or successful defense of litigation.

38 (b) Authorization. – The Department of Transportation may engage the services of
39 private counsel with the pertinent expertise to provide legal services related to any project
40 undertaken by the Department. The Department shall supervise and manage the private counsel
41 engaged under this section and, excluding legal services related to workers' compensation
42 claims brought by Department employees, shall not be required to obtain written permission or
43 approval from the Attorney General under G.S. 114-2.3.

44 (c) Performance Metrics. – The Department shall develop performance metrics to
45 evaluate its utilization of in-house counsel and private counsel, to include the following:

46 (1) A summary of new matters opened by legal area.

47 (2) Case cycle times.

48 (3) Resolution of cases.

49 (4) A comparison of in-house costs to billable rates for private counsel.

50 (5) The process for procurement for legal services.
51

1 (d) Report. – The Department shall provide a semiannual report to the Joint Legislative
2 Transportation Oversight Committee and the Joint Legislative Justice and Public Safety
3 Oversight Committee on the performance metrics set forth in subsection (c) of this section."
4

5 **RIGHT-OF-WAY ACQUISITIONS/REDUCE REMNANT PROPERTY**

6 **SECTION 29.9.(a)** Plan. – The Department of Administration, in collaboration
7 with the Department of Transportation, shall develop a plan to reduce the amount of remnant
8 property resulting from the acquisition of rights-of-way. The plan shall include a method or
9 methods for disseminating information to contiguous or adjoining landowners and other
10 members of the general public about (i) remnant property eligible for sale or other disposition
11 and (ii) the process for placing a bid or offer on the remnant property, including posting the
12 information required under this subdivision on the Web sites for both Departments.

13 **SECTION 29.9.(b)** Report. – The Departments shall jointly report to the Joint
14 Legislative Transportation Oversight Committee by February 1, 2016, on the development of
15 the plan required under this section. The report shall include all of the following:

- 16 (1) An identification of all remnant property eligible for sale or other
17 disposition.
- 18 (2) An identification of the amount and types of costs incurred by the State from
19 retaining remnant property.
- 20 (3) An identification of the estimated fair market value, as determined by the
21 Department of Administration, for each remnant property eligible for sale or
22 other disposition.
- 23 (4) An identification of any legal issues that may prohibit, or arise from, the sale
24 or other disposition of other remnant property, if any.
- 25 (5) Any other matters or information the Departments jointly deem relevant to
26 the development of the plan.

27 **SECTION 29.9.(c)** Implementation. – The Department of Administration shall
28 implement the plan required under this section by July 1, 2016.

29 **SECTION 29.9.(d)** This section is effective when this act becomes law.
30

31 **ROADSIDE ENVIRONMENTAL UNIT/LITTER PROGRAM**

32 **SECTION 29.9A.** The Department of Transportation shall reclassify two vacant
33 positions within the Division of Highways as Office Assistant IV positions within the Roadside
34 Environmental Unit, and the duties of the positions shall include managing the litter program.
35 The Department shall transfer from the highway maintenance units to the Roadside
36 Environmental Unit all functions and funding related to the litter program and lawn mowing.
37

38 **VARIOUS REPORTING CHANGES**

39 **SECTION 29.12.(a)** G.S. 136-89.183(a)(5) reads as rewritten:

40 "(5) To fix, revise, charge, retain, enforce, and collect tolls and fees for the use of
41 the Turnpike Projects. ~~Prior~~ Thirty days prior to the effective date of any toll
42 or fee for use of a Turnpike Facility, the Authority shall submit a description
43 of the proposed toll or fee to the Board of Transportation, the Joint
44 Legislative Transportation Oversight Committee and the Joint Legislative
45 Commission on Governmental Operations for review."

46 **SECTION 29.12.(b)** G.S. 143B-350(f)(4) reads as rewritten:

47 "(4) To approve a schedule of all major transportation improvement projects and
48 their anticipated cost. This schedule is designated the Transportation
49 Improvement Program. The Board shall publish the schedule in a format that
50 is easily reproducible for distribution and make copies available for
51 distribution.—distribution in accordance with the process established for

1 public records in Chapter 132 of the General Statutes. The document that
2 contains the Transportation Improvement Program, or a separate document
3 that is published at the same time as the Transportation Improvement
4 Program, shall include the anticipated funding sources for the improvement
5 projects included in the ~~Program, Program and~~ a list of any changes made
6 from the previous year's Program, and the reasons for the changes."

7 **SECTION 29.12.(c)** G.S. 136-44.8(a1) reads as rewritten:

8 "(a1) In each county having unpaved roads programmed for paving, representatives of the
9 Department of Transportation shall annually provide to the board of county commissioners in
10 those counties a list of roads proposed for the annual paving program approved by the Board of
11 Transportation. The paving priority list shall include the priority rating of each secondary road
12 paving project included in the proposed paving program according to the criteria and standards
13 adopted by the Board of Transportation. In addition to the list required under this subsection,
14 the Department of Transportation shall annually provide to the board of county commissioners
15 a summary of unpaved secondary road projects completed in the particular county for the prior
16 calendar year, including an indication as to which projects were not completed on schedule and
17 a detailed explanation as to why the projects were not completed on schedule."

18 **SECTION 29.12.(d)** G.S. 136-44.9 is repealed.

19 **SECTION 29.12.(e)** G.S. 136-28.6(h) reads as rewritten:

20 "(h) The Secretary shall report in writing, on a ~~quarterly~~ annual basis, to the Joint
21 ~~Legislative Commission on Governmental Operations~~ Transportation Oversight Committee on
22 all agreements entered into between a private developer and the Department of Transportation
23 for participation in private engineering and construction contracts under this section, as well as
24 (i) agreements by counties and municipalities to participate in private engineering and
25 construction contracts under subsection (i) of this section and (ii) pass-through funding from
26 private developers to counties or municipalities for State transportation projects. The
27 information in the report required by this subsection shall be set forth separately for each
28 division of the Department of Transportation."

29 **SECTION 29.12.(f)** G.S. 136-66.3(f) reads as rewritten:

30 "(f) Report to General Assembly. – The Department shall report in writing, on a
31 ~~monthly~~ annual basis, to the Joint Legislative ~~Commission on Governmental Operations~~
32 Transportation Oversight Committee on all agreements entered into between counties,
33 municipalities and the Department of Transportation. The report shall state in summary form
34 the contents of ~~such~~ the agreements. The information in the report required by this subsection
35 shall be set forth separately for each division of the Department of Transportation."

36 **SECTION 29.12.(g)** G.S. 136-28.10(c) reads as rewritten:

37 "(c) The Secretary of Transportation shall report ~~quarterly~~ annually to the Joint
38 Legislative Transportation Oversight Committee on the implementation of this section. The
39 information in the report required by this subsection shall be set forth separately for each
40 division of the Department of Transportation."

41 **SECTION 29.12.(h)** G.S. 143B-350 is amended by adding a new subsection to
42 read:

43 "(p) Reports. – Notwithstanding any other provision of law, any report required to be
44 submitted by the Board to the General Assembly or a committee thereof is due by the 15th day
45 of the month that the report is due."

46 **OUTSOURCING OF PRECONSTRUCTION ACTIVITY**

47 **SECTION 29.13.(a)** Section 34.13(a) of S.L. 2014-100 reads as rewritten:

48 "SECTION 34.13.(a) The Department of Transportation shall seek to increase the use of
49 contracts to further privatize preconstruction work where practical, economical, and likely to
50

1 lead to increased efficiency. In doing so, the Department of Transportation shall meet each of
 2 the following privatization requirements:

- 3 (1) Increase the outsourcing of all activities performed by the Department's
 4 Preconstruction and Technical Services units to seventy percent (70%) of the
 5 total cost of activities performed by those units in fiscal year
 6 ~~2014-2015, 2015-2016~~, excluding the cost of activities performed by the
 7 Turnpike Authority, the Structures Design and Management unit, and the
 8 Bridge Program.
- 9 (2) Increase the outsourcing of all activities performed by the Department's
 10 Roadway Design unit to fifty percent (50%) of the total cost of activities
 11 performed by that unit in fiscal year ~~2014-2015, 2015-2016~~.
- 12 (3) Increase the outsourcing of all activities performed by the Department's
 13 Project Development and Environmental Analysis unit to sixty-five percent
 14 (65%) of the total cost of activities performed by that unit in fiscal year
 15 ~~2014-2015, 2015-2016~~.
- 16 (4) ~~The~~Based on the total expenditures for outsourced activity in fiscal year
 17 2013-2014, the Department's Right-of-Way unit shall increase the total
 18 expenditures for outsourced activity by five percent (5%) in fiscal year
 19 ~~2014-2015, 2015-2016~~."

20 **SECTION 29.13.(b)** Section 34.13(d) of S.L. 2014-100 reads as rewritten:

21 "SECTION 34.13.(d) The Department shall report no later than October 1, ~~2014, 2015~~, and
 22 quarterly thereafter, to the Joint Legislative Transportation Oversight Committee and the Fiscal
 23 Research Division regarding its implementation of this section, including any reductions in
 24 force used to meet privatization requirements."
 25

26 **RECLASSIFY FUNDING SOURCE FOR CERTAIN POSITIONS**

27 **SECTION 29.14.** No later than May 1, 2016, the Department of Transportation, in
 28 consultation with the Fiscal Research Division and the Office of State Budget and
 29 Management, shall reclassify to appropriation the funding source for all full-time positions that
 30 are budgeted as receipt-supported on the basis of charging to projects and shall adjust budgeted
 31 funds accordingly. Employees in the Division of Highways shall be attributed to the respective
 32 Highway Division fund codes within the Highway Fund. Notwithstanding any other provision
 33 of law, the Department of Transportation is authorized to reallocate sufficient funds from the
 34 Primary Maintenance, Secondary Maintenance, and General Maintenance Reserve fund codes
 35 to each Highway Division to pay for salary and related costs associated with the reclassified
 36 positions. Receipt-supported positions in other organizational units within the Department of
 37 Transportation shall be funded through existing fund codes and funding sources for their
 38 assigned organizational units.
 39

40 **DOT/STREAMLINING AND REORGANIZATION**

41 **SECTION 29.14A.(a)** Intent. – It is the intent of the General Assembly to reduce
 42 costs and increase efficiencies within the Department of Transportation. To achieve this intent,
 43 the General Assembly finds that the elimination and reorganization of certain positions, units,
 44 and programs is necessary.

45 **SECTION 29.14A.(b)** Position Eliminations. – In accordance with G.S. 126-7.1,
 46 but by no later than 60 days after the effective date of this section, the Department of
 47 Transportation shall eliminate the following positions:

| <u>Position number</u> | <u>Title</u> |
|------------------------|---------------------------|
| 60026819 | Processing Assistant III |
| 60026963 | Technical Support Analyst |
| 60026961 | Technical Support Analyst |

| | | |
|----|----------|-----------------------------------|
| 1 | 60026964 | Engineering Technician |
| 2 | 60026962 | Technology Support Analyst |
| 3 | 60015475 | Engineering Technician |
| 4 | 60027682 | Processing Assistant V |
| 5 | 60024002 | Management Engineer III |
| 6 | 60029011 | Engineer |
| 7 | 60029012 | Architect Supervisor |
| 8 | 60029019 | Engineering Technician |
| 9 | 60015784 | Engineer |
| 10 | 60015785 | Environmental Specialist |
| 11 | 60018852 | Marine Welder |
| 12 | 60024003 | Technology Support Analyst |
| 13 | 60024034 | Administrative Officer II |
| 14 | 60024046 | Radio Communications Engineer |
| 15 | 60024055 | Technical Trainer II |
| 16 | 60024057 | Technical Trainer II |
| 17 | 60024058 | Technical Trainer II |
| 18 | 60024072 | Radio Engineer I |
| 19 | 60024011 | Information Processing Technician |
| 20 | 60024012 | Information Processing Technician |
| 21 | 60024041 | Information Processing Technician |
| 22 | 60024068 | Administrative Assistant III |
| 23 | 60027194 | Engineer |
| 24 | 60026559 | Engineer |
| 25 | 60026603 | Engineer |
| 26 | 60026472 | Engineer |
| 27 | 60026509 | Engineer |
| 28 | 60026843 | Engineering Supervisor |
| 29 | 60027171 | Engineering Manager |
| 30 | 60029468 | Engineer |
| 31 | 60029009 | Engineering Technician |
| 32 | 60029014 | Engineering Technician |
| 33 | 60029015 | Engineering Supervisor |
| 34 | 60029018 | Engineering Technician |
| 35 | 60025908 | Engineering Supervisor |
| 36 | 60025855 | Engineer |
| 37 | 60025937 | Engineering Supervisor |
| 38 | 60025980 | Engineer |
| 39 | 60025919 | Engineering Technician |
| 40 | 60026010 | Engineer |
| 41 | 60025859 | Engineer |
| 42 | 60025846 | Engineer |
| 43 | 60026005 | Engineering Supervisor |
| 44 | 60026015 | Engineer |
| 45 | 60025862 | Engineer |
| 46 | 60025999 | Engineer |
| 47 | 60025877 | Engineer |
| 48 | 60025945 | Engineering Supervisor |
| 49 | 60026805 | Engineering Technician |
| 50 | 60026944 | Engineering Technician |
| 51 | 60025069 | Engineering Manager |

1 60027023 Engineering Director

2 60027025 Engineer

3 **SECTION 29.14A.(c)** Vacant Positions. – The Office of State Budget and
4 Management shall eliminate all vacant positions within units or programs of the Department of
5 Transportation in which all filled positions have been eliminated.

6 **SECTION 29.14A.(d)** Reorganization and Consolidation. – Notwithstanding any
7 other provision of law, the Department of Transportation may, when it deems necessary for
8 purposes of eliminating redundancies and achieving efficiencies, reorganize or consolidate any
9 unit or program within the Department of Transportation in which a filled position has been
10 eliminated under this section.

11 **SECTION 29.14A.(e)** Plan for Future Position Elimination and Reorganization. –
12 It is the intent of the General Assembly for the 2016-2017 fiscal year to reduce the number of
13 administrative, managerial, supervisory, and oversight functions centrally or regionally based
14 in offices of the Department of Transportation and shift decision making on project
15 development to the highway divisions. To achieve this intent, the Department of Transportation
16 shall submit a plan to eliminate at least ten percent (10%) of the total amount of filled positions
17 that are centrally or regionally based as of June 30, 2015, and that perform administrative,
18 managerial, supervisory, or oversight functions. In addition, the plan shall describe the
19 functions performed at the centrally and regionally based offices, including justification as to
20 why each function cannot be outsourced, consolidated, or shifted to the highway divisions. The
21 Department of Transportation shall submit the plan required under this subsection to the chairs
22 of the Senate Appropriations Committee on the Department of Transportation and the House of
23 Representatives Committee on Transportation Appropriations and the Joint Legislative
24 Transportation Oversight Committee by January 1, 2016.

25 **SECTION 29.14A.(f)** Effective Date. – This section is effective when it becomes
26 law.

27 **STUDY/TURNPIKE AUTHORITY PROCESSING FEE**

28 **SECTION 29.15.(a)** Study. – The Department of Transportation shall study
29 whether the amount of the processing fee set forth in G.S. 136-89.215 is in excess of the actual
30 cost to collect and process unpaid open road tolls. The following information, set forth
31 separately for each calendar year since the fee's enactment, shall be included within the study:

- 32 (1) The amount of the processing fee.
- 33 (2) The total amount of proceeds generated by the imposition of the processing
34 fee.
- 35 (3) The total amount of costs incurred by the Turnpike Authority to collect and
36 process unpaid open road tolls and a description of how the Department
37 determined the total amount of costs incurred.
- 38 (4) An identification of whether the processing fees collected exceeded,
39 equaled, or fell short of the costs incurred by the Turnpike Authority for
40 collecting and processing unpaid open road tolls.

41 **SECTION 29.15.(b)** Report. – The Department shall report its findings to the Joint
42 Legislative Transportation Oversight Committee by March 1, 2016.

43 **ADJUST CAP ON TURNPIKE PROJECTS**

44 **SECTION 29.15A.** G.S. 136-89.183(a)(2) reads as rewritten:

45 **"§ 136-89.183. Powers of the Authority.**

46 (a) The Authority shall have all of the powers necessary to execute the provisions of
47 this Article, including the following:

48 ...
49 ...
50 ...

(2) To study, plan, develop, and undertake preliminary design work on ~~up to nine~~ Turnpike Projects. At the conclusion of these activities, the Turnpike Authority is authorized to design, establish, purchase, construct, operate, and maintain no more than eleven projects, which shall include the following projects:~~following:~~

- a. Triangle Expressway, including segments also known as N.C. 540, Triangle Parkway, and the Western Wake Freeway in Wake and Durham Counties. The described segments constitute ~~three projects.~~one project.
- b. Repealed by Session Laws 2013-183, s. 5.1, effective July 1, 2013.
- c. Monroe Connector/Bypass.
- d., e. Repealed by Session Laws 2013-183, s. 5.1, effective July 1, 2013.
- f. Repealed by Session Laws 2008-225, s. 4, effective August 17, 2008.

Any other project proposed by the Authority in addition to the projects listed in this subdivision requires prior consultation with the Joint Legislative Commission on Governmental Operations pursuant to G.S. 120-76.1 no less than 180 days prior to initiating the process required by Article 7 of Chapter 159 of the General Statutes.

With the exception of the ~~four~~two projects set forth in sub-subdivisions a. and c. of this subdivision, the Turnpike projects selected for construction by the Turnpike Authority, prior to the letting of a contract for the project, shall meet the following conditions: (i) two of the projects must be ranked in the top 35 based on total score on the Department-produced list entitled "Mobility Fund Project Scores" dated June 6, 2012, and, in addition, may be subject to G.S. 136-18(39a); (ii) of the projects not ranked as provided in (i), one may be subject to G.S. 136-18(39a); (iii) the projects shall be included in any applicable locally adopted comprehensive transportation plans; (iv) the projects shall be shown in the current State Transportation Improvement Program; and (v) toll projects must be approved by all affected Metropolitan Planning Organizations and Rural Transportation Planning Organizations for tolling."

USE OF FUNDS FOR PAVEMENT PRESERVATION PROGRAM

SECTION 29.17.(a) G.S. 136-44.17 reads as rewritten:

"§ 136-44.17. Pavement preservation program.

(b) Eligible Activities or Treatments. – Applications eligible for funding under the pavement preservation program include the following preservation activities or treatments for asphalt pavement structures:

- (1) Chip seals, slurry seals, fog seals, sand seals, scrub seals, and cape seals.
- (2) Microsurfacing.
- (3) Profile milling not covered by resurfacing.
- (4) Asphalt rejuvenators.
- (5) Open graded asphalt friction course.
- (6) Overlays less than 1,000 feet in length.
- (7) Diamond grinding.
- (8) Joint sealing.
- (9) Dowel bar retrofit.
- (10) Partial-depth or full-depth repairs and reclamations.
- (11) Ultra-thin whitetopping.
- (12) Thin lift and sand asphalt overlays.

- 1 (13) Asphalt crack sealing.
2 (c) Ineligible Activities or Treatments. – The pavement preservation program shall not
3 include the following preservation activities or treatments:
4 (1) Contract resurfacing activities or major pavement rehabilitation treatments
5 and pretreatments that are used in combination with a resurfacing treatment,
6 such as profile milling or chip seals.
7 (2) Routine maintenance activities used to maintain and preserve the condition
8 of roads. Treatments include, but are not limited to, ~~asphalt crack sealing,~~
9 pothole patching, rut filling, cleaning of roadside ditches and structures,
10 shoulder maintenance, and retracing of pavement markings.
11 (3) Maintenance and preservation activities performed on bridges or culverts.
12 (4) Activities related to positive guidance or signal maintenance program
13 functions.
14 (d) Encumbrance Schedule. – Beginning in the 2015-2016 fiscal year, the Department
15 of Transportation shall spend or encumber all funds appropriated by the General Assembly to
16 the Department for the pavement preservation program by June 30 of the fiscal year for which
17 the funds were appropriated."

18 **SECTION 29.17.(b)** Subsection (k) of Section 34.11 of S.L. 2014-100 is repealed.

19 **SECTION 29.17.(c)** Subdivision (3) of subsection (l) of Section 34.11 of S.L.
20 2014-100 reads as rewritten:

21 "(3) The statewide cost per lane mile (hereafter "unit cost") along with unit cost
22 for each division and for each type of treatment. The Department shall
23 provide an explanation for unit costs that vary by more than ~~twenty percent~~
24 (20%)ten percent (10%) from the statewide unit cost."

25 **SECTION 29.17.(d)** Subsection (c) of this section is effective when this act
26 becomes law and applies to reports submitted on or after that date.

27 **FUNDS FOR CONTRACT RESURFACING**

28 **SECTION 29.17C.(a)** Subsection (e) of Section 34.11 of S.L. 2014-100 is
29 repealed.

30 **SECTION 29.17C.(b)** G.S. 136-44.3A reads as rewritten:

31 "**§ 136-44.3A. Highway Maintenance Improvement Program.**

32 ...

33 ...
34 ~~(d) Contract Maintenance Resurfacing Program Letting Schedule.—Beginning in the~~
35 ~~2015-2016 fiscal year, and based on the amount of funds appropriated in the prior fiscal year by~~
36 ~~the General Assembly to the Department for the contract maintenance resurfacing program, the~~
37 ~~Department shall let contracts that total at least seventy percent (70%) of contract resurfacing~~
38 ~~program funds included in the certified budget annually by September 1.~~

39 (d1) Encumbrance Schedule. – Beginning in the 2015-2016 fiscal year, the Department
40 of Transportation shall spend or encumber all funds appropriated by the General Assembly to
41 the Department for the contract maintenance resurfacing program by June 30 of the fiscal year
42 for which the funds were appropriated.

43 "

44 **STABILIZATION OF FUNDING FOR STATE AID TO MUNICIPALITIES**

45 **SECTION 29.17D.** G.S. 136-41.1(a) reads as rewritten:

46 "(a) ~~There is annually appropriated out of the State Highway Fund a sum equal to ten~~
47 ~~and four tenths percent (10.4%) of the net amount after refunds that was produced during the~~
48 ~~fiscal year by the tax imposed under Article 36C of Chapter 105 of the General Statutes and on~~
49 ~~the equivalent amount of alternative fuel taxed under Article 36D of that Chapter.~~
50 ~~One-half~~Upon appropriation of funds by the General Assembly to the Department of
51 Transportation, the Department shall let contracts that total at least seventy percent (70%) of contract resurfacing

1 Transportation for State aid to municipalities, one-half of the amount appropriated shall be
2 allocated in cash on or before October 1 of each year to the cities and towns of the State in
3 accordance with this section. The second one-half of the amount appropriated shall be allocated
4 in cash on or before January 1 of each year to the cities and towns of the State in accordance
5 with this section. ~~The appropriation from the Highway Fund shall be based on revenue~~
6 ~~collected during the fiscal year preceding the date the distribution is made.~~

7 Seventy-five percent (75%) of the funds appropriated for cities and towns shall be
8 distributed among the several eligible municipalities of the State in the percentage proportion
9 that the population of each eligible municipality bears to the total population of all eligible
10 municipalities according to the most recent annual estimates of population as certified to the
11 Secretary of Revenue by the State Budget Officer. This annual estimation of population shall
12 include increases in the population within the municipalities caused by annexations
13 accomplished through July 1 of the calendar year in which these funds are distributed.
14 Twenty-five percent (25%) of said fund shall be distributed among the several eligible
15 municipalities of the State in the percentage proportion that the mileage of public streets in
16 each eligible municipality which does not form a part of the State highway system bears to the
17 total mileage of the public streets in all eligible municipalities which do not constitute a part of
18 the State highway system.

19 It shall be the duty of the mayor of each municipality to report to the Department of
20 Transportation such information as it may request for its guidance in determining the eligibility
21 of each municipality to receive funds under this section and in determining the amount of
22 allocation to which each is entitled. Upon failure of any municipality to make such report
23 within the time prescribed by the Department of Transportation, the Department of
24 Transportation may disregard such defaulting unit in making said allotment.

25 The funds to be allocated under this section shall be paid in cash to the various eligible
26 municipalities on or before October 1 and January 1 of each year as provided in this section.
27 Provided that eligible municipalities are authorized within the discretion of their governing
28 bodies to enter into contracts for the purpose of maintenance, repair, construction,
29 reconstruction, widening, or improving streets of such municipalities at any time after January
30 1 of any calendar year in total amounts not to exceed ninety percent (90%) of the amount
31 received by such municipality during the preceding fiscal year, in anticipation of the receipt of
32 funds under this section during the next fiscal year, to be paid for out of such funds when
33 received.

34 The Department of Transportation may withhold each year an amount not to exceed one
35 percent (1%) of the total amount appropriated for distribution under this section for the purpose
36 of correcting errors in allocations: Provided, that the amount so withheld and not used for
37 correcting errors will be carried over and added to the amount to be allocated for the following
38 year.

39 The word "street" as used in this section is hereby defined as any public road maintained by
40 a municipality and open to use by the general public, and having an average width of not less
41 than 16 feet. In order to obtain the necessary information to distribute the funds herein
42 allocated, the Department of Transportation may require that each municipality eligible to
43 receive funds under this section submit to it a statement, certified by a registered engineer or
44 surveyor of the total number of miles of streets in such municipality. The Department of
45 Transportation may in its discretion require the certification of mileage on a biennial basis."
46

47 **STUDY/IMPROVING SAFETY ON SECONDARY ROADS**

48 **SECTION 29.17E.(a)** Study. – The Department of Transportation shall study ways
49 to improve safety and decrease the number of traffic accidents and fatalities occurring on
50 secondary roads. The study shall include all of the following:

- 1 (1) An identification of the secondary roads with the highest number of traffic
- 2 accidents and fatalities.
- 3 (2) An identification of the most common causes listed for traffic accidents and
- 4 fatalities occurring on secondary roads.
- 5 (3) Any other matters or information the Department deems relevant to the
- 6 completion of the study.

7 **SECTION 29.17E.(b)** Report. – The Department shall report its findings and
8 recommendations, including any legislative proposals, to the Joint Legislative Transportation
9 Oversight Committee by February 1, 2016.

10 11 **RELOCATION COSTS/SALE OF VISITOR CENTER IN BOONE, NC**

12 **SECTION 29.17F.** If the visitor center located in the Town of Boone is sold or
13 otherwise disposed of during the 2015-2017 fiscal biennium, there is appropriated from the
14 Special Registration Plate Account the sum of fifty thousand dollars (\$50,000) in nonrecurring
15 funds to the North Carolina High Country Host, Inc., for the purpose of covering costs incurred
16 from renovating or upfitting the relocated visitor center. These funds shall be in addition to any
17 other funds the North Carolina High Country Host, Inc., may receive under G.S. 20-79.7 for the
18 operation of a visitor center.

19 20 **REPORT/USE OF COAL COMBUSTION RESIDUALS**

21 **SECTION 29.18.** Report. – By January 15, 2016, the Utilities Commission shall
22 submit a report to the Joint Legislative Commission on Governmental Operations, the Joint
23 Legislative Transportation Oversight Committee, and the Environmental Review Commission
24 on the incremental cost incentives related to coal combustion residuals surface impoundments
25 for investor-owned public utilities. The report shall include all of the following:

- 26 (1) The Utilities Commission policy on allowed incremental cost recoupment.
- 27 (2) The impact on utility customers' rates under the current policy on allowed
- 28 incremental cost recoupment.
- 29 (3) Possible revisions to the current policy on allowed incremental cost
- 30 recoupment that would promote reprocessing and other technologies that
- 31 allow the reuse of coal combustion residuals stored in surface impoundments
- 32 for concrete and other beneficial end uses.

33 34 **RAIL DIVISION/STUDY ESTABLISHING COMMERCIAL FREIGHT RAIL** 35 **SERVICE IN JACKSONVILLE**

36 **SECTION 29.21.(a)** Study. – The Rail Division of the Department of
37 Transportation, in collaboration with the Camp Lejeune Marine Corps Air Base, the
38 Jacksonville Urban Area Metropolitan Planning Organization, the City of Jacksonville, Onslow
39 County, and the Norfolk Southern Railway Company, shall study the feasibility and
40 advisability of establishing a commercial freight rail service along the Camp Lejeune rail line
41 located in Onslow County, North Carolina. The study shall include all of the following:

- 42 (1) An evaluation of the maintenance needs of the existing rail line and any
- 43 enhancements needed to support commercial freight access.
- 44 (2) An evaluation of the use of partnership opportunities to complete long-term
- 45 maintenance and enhancements in order to minimize the cost burden for all
- 46 parties involved.
- 47 (3) Any other matters that the Rail Division deems relevant to the study.

48 **SECTION 29.21.(b)** Report. – The Rail Division shall report its findings to the
49 Chairs of the Senate Appropriations Committee on the Department of Transportation and the
50 House of Representatives Committee on Transportation Appropriations by July 1, 2016.

PASSENGER RAIL RECEIPT-GENERATING ACTIVITIES

SECTION 29.22.(a) G.S. 136-18 is amended by adding a new subdivision to read:

"(44a) Where the Department owns or leases the passenger rail facility, owns or leases the rail equipment, or holds leasehold or license rights for the purpose of operating passenger stations, the Department may operate or contract for the following receipt-generating activities and use the proceeds to fund passenger rail operations:

- a. Where the Department owns the passenger rail facility or owns or leases the rail equipment, operation of concessions on State-funded passenger trains and at passenger rail facilities to provide to passengers food, drink, and other refreshments, personal comfort items, Internet access, and souvenirs publicizing the passenger rail system.
- b. Where the Department holds leasehold or license rights for the purpose of operating passenger stations, operation of concessions at rail passenger facilities to provide food, drink, and other refreshments, personal comfort items, Internet access, and souvenirs publicizing the passenger rail system, in accordance with the terms of the leasehold or license.
- c. Advertising on or within the Department's passenger rail equipment or facility, including display advertising and advertising delivered to passengers through the use of video monitors, public address systems installed in passenger areas, and other electronic media.
- d. The sale of naming rights to Department-owned passenger rail equipment or facilities."

SECTION 29.22.(b) G.S. 66-58(c)(21) reads as rewritten:

"(21) Any activity conducted or contracted for by the Department of Transportation that is authorized by G.S. 136-18(44a) or G.S. 136-82(f)."

FREIGHT RAIL & RAIL CROSSING SAFETY IMPROVEMENT FUND USES

SECTION 29.23. G.S. 124-5.1 reads as rewritten:

"§ 124-5.1. North Carolina Railroad Company dividends deposited to Highway Fund.

Any dividends of the North Carolina Railroad Company received by the State shall be deposited into the Freight Rail & Rail Crossing Safety Improvement Fund within the Highway Fund and administered by the Rail Division of the Department of Transportation. The Fund shall be used for the enhancement of freight rail service and railroad-roadway crossing safety, which may include the following project types:

- (1) Track and associated infrastructure improvements for freight service.
- (2) Grade crossing protection, elimination, and hazard removal.
- (3) Signalization improvements.
- (4) Assistance for projects to improve rail access to industrial, port, and military facilities and for freight intermodal facility improvements, provided that funding assistance under this subdivision shall be subject to the same limits as that for short-line railroads under G.S. 136-44.39.
- (5) Corridor protection and reactivation.

The Fund may also be used to supplement funds allocated for freight rail or railroad-roadway crossing safety projects approved as part of the Transportation Improvement Program."

USE OF PROCEEDS GENERATED FROM SHIPYARD

SECTION 29.23A. G.S. 136-82 reads as rewritten:

1 "§ 136-82. Department of Transportation to establish and maintain ferries.

2 ...
 3 (d) Use of Toll Proceeds. – The Department of Transportation shall credit the proceeds
 4 from tolls collected on North Carolina Ferry System routes and certain receipts generated under
 5 subsection (f) of this section to reserve accounts within the Highway Fund for each of the
 6 Highway Divisions in which system terminals are located and fares are earned. For the
 7 purposes of this subsection, fares are earned based on the terminals from which a passenger trip
 8 originates and terminates. Commuter pass receipts shall be credited proportionately to each
 9 reserve account based on the distribution of trips originating and terminating in each Highway
 10 Division. The proceeds credited to each reserve account shall be used exclusively for
 11 prioritized North Carolina Ferry System ferry passenger vessel replacement projects in the
 12 Division in which the proceeds are earned. Proceeds may be used to fund ferry passenger vessel
 13 replacement projects or supplement funds allocated for ferry passenger vessel replacement
 14 projects approved in the Transportation Improvement Program.

15 ...
 16 (f) Authority to Generate Certain Receipts. – The Department of Transportation,
 17 notwithstanding any other provision of law, may operate or contract for the following
 18 receipt-generating activities ~~and~~, except as otherwise provided in subsection (f1) of this
 19 section, use the proceeds for ferry passenger vessel replacement projects in the manner set forth
 20 in subsection (d) of this section:

21 ...
 22 (f1) Use of Receipts Generated From Shipyard. – The Department of Transportation
 23 shall credit the proceeds from receipts generated under subsection (f) of this section from
 24 activities performed by the North Carolina State Shipyard to a reserve account within the
 25 Highway Fund to be used exclusively for improvements to the Shipyard, including equipment
 26 and associated infrastructure. Notwithstanding the restrictions on the use of proceeds set forth
 27 in subsections (d) and (f) of this section, the Department may use a proportional amount of the
 28 proceeds credited to each reserve account described in subsection (d) of this section to replace
 29 or repair equipment in accordance with this subsection if there is an insufficient amount of
 30 funds in the reserve account within the Highway Fund for the Shipyard.

31"

32
 33 **SET FEE FOR PRIORITY BOARDING ON FERRY**

34 **SECTION 29.23B.(a)** G.S. 136-82(f) is amended by adding a new subdivision to
 35 read:

36 "(3a) Issuance of annual passes to individual passengers that entitle the passengers
 37 to priority when boarding a ferry passenger vessel. The Department of
 38 Transportation shall charge an annual fee of one hundred fifty dollars
 39 (\$150.00) for each pass issued under this subdivision. The fee shall be in
 40 addition to any applicable ferry toll. In addition to the purposes set forth in
 41 this subsection, proceeds from fees collected under this subdivision may be
 42 used for operating expenses of the route in which the fee was collected.
 43 Notwithstanding any other provision of law, the Department of
 44 Transportation shall not provide free of charge annual passes to individual
 45 passengers that entitle the passengers to priority when boarding a ferry
 46 passenger vessel."

47 **SECTION 29.23B.(b)** This section becomes effective July 1, 2015, and applies to
 48 passes issued on or after that date.

49
 50 **RFI AND STUDY/PRIVATIZATION OF FERRY SYSTEM**

1 **SECTION 29.23C.(a)** Intent. – The General Assembly finds that the privatization
2 of the North Carolina Ferry System would provide a more cost-effective service model for the
3 citizens of the State. Therefore, it is the intent of the General Assembly to ascertain market
4 interest for the private operation of the North Carolina Ferry System or its component parts.

5 **SECTION 29.23C.(b)** Request for Information. – The Board of Transportation
6 shall issue a request for information (RFI) for the privatization of the North Carolina Ferry
7 System.

8 **SECTION 29.23C.(c)** Report. – The Board of Transportation shall report to the
9 Joint Legislative Transportation Oversight Committee and the Fiscal Research Division no later
10 than February 1, 2016, on the results of the RFI and whether it is more cost-effective to
11 privatize the North Carolina Ferry System.

12 **SECTION 29.23C.(d)** Study. – The Joint Legislative Transportation Oversight
13 Committee shall study the feasibility and desirability of privatizing the North Carolina Ferry
14 System. The study shall include ownership, governance, and regulatory issues related to (i)
15 potential privatization of the North Carolina Ferry System and (ii) privately owned ferries
16 currently operating in North Carolina. The Joint Legislative Transportation Oversight
17 Committee shall report its findings and any legislative proposals to the 2016 Regular Session of
18 the 2015 General Assembly.

19 **USE OF FUNDS APPROPRIATED TO DIVISION OF AVIATION**

20 **SECTION 29.27.** Of the funds appropriated in this act to the Division of Aviation
21 of the Department of Transportation, the Division shall allocate (i) the sum of three million five
22 hundred thousand dollars (\$3,500,000) in nonrecurring funds for the 2015-2016 fiscal year to
23 the Cape Fear Regional Jetport to be used for improvements to the Jetport and (ii) the sum of
24 one million dollars (\$1,000,000) in nonrecurring funds for the 2015-2016 fiscal year to the
25 Albert J. Ellis Airport to be used for the establishment of an air traffic control tower. The
26 remaining funds appropriated in this act to the Division may be used for time-sensitive,
27 aviation-related economic development projects.
28

29 **ADJUST MUNICIPAL VEHICLE TAX**

30 **SECTION 29.27A.(a)** G.S. 20-97 reads as rewritten:

31 "**§ 20-97. Taxes credited to Highway Fund; municipal vehicle taxes.**

32 (a) State Taxes to Highway Fund. – All taxes levied under this Article are
33 compensatory taxes for the use and privileges of the public highways of this State. The taxes
34 collected shall be credited to the State Highway Fund. Except as provided in this section, no
35 county or municipality shall levy any license or privilege tax upon any motor vehicle licensed
36 by the State.
37

38 ~~(b) General Municipal Vehicle Tax. – Cities and towns may levy a tax of not more than~~
39 ~~five dollars (\$5.00) per year upon any vehicle resident in the city or town. The proceeds of the~~
40 ~~tax may be used for any lawful purpose.~~

41 (b1) Municipal Vehicle Tax. – A city or town may levy an annual municipal vehicle tax
42 upon any vehicle resident in the city or town. The aggregate annual municipal vehicle tax
43 levied, including any annual municipal vehicle tax authorized by local legislation, may not
44 exceed thirty dollars (\$30.00) per vehicle. A city or town may use the net proceeds from the
45 municipal vehicle tax as follows:

46 (1) General purpose. – Not more than five dollars (\$5.00) of the tax levied may
47 be used for any lawful purpose.

48 (2) Public transportation. – Not more than five dollars (\$5.00) of the tax levied
49 may be used for financing, constructing, operating, and maintaining local
50 public transportation systems. This subdivision only applies to a city or town
51 that operates a public transportation system as defined in G.S. 105-550.

(3) Public streets. – The remainder of the tax levied may be used for maintaining, repairing, constructing, reconstructing, widening, or improving public streets in the city or town that do not form a part of the State highway system.

(e) ~~Municipal Vehicle Tax for Public Transportation.~~ – A city or town that operates a public transportation system as defined in G.S. 105-550 may levy a tax of not more than five dollars (\$5.00) per year upon any vehicle resident in the city or town. The tax authorized by this subsection is in addition to the tax authorized by subsection (b) of this section. A city or town may not levy a tax under this section, however, to the extent the rate of tax, when added to the general motor vehicle taxes levied by the city or town under subsection (b) of this section and under any local legislation, would exceed thirty dollars (\$30.00) per year. The proceeds of the tax may be used only for financing, constructing, operating, and maintaining local public transportation systems. Cities and towns shall use the proceeds of the tax to supplement and not to supplant or replace existing funds or other resources for public transportation systems. This subsection does not apply to the cities and towns in Gaston County.

(d) Municipal Taxi Tax. – Cities and towns may levy a tax of not more than fifteen dollars (\$15.00) per year upon each vehicle operated in the city or town as a taxicab. The proceeds of the tax may be used for any lawful purpose.

(e) No Additional Local Tax. – No county, city or town may impose a franchise tax, license tax, or other fee upon a motor carrier unless the tax is authorized by this section."

SECTION 29.27A.(b) This section is effective when it becomes law. This section does not change, repeal, or affect any local modifications to G.S. 20-97(b) enacted on or before the effective date.

ADJUST DISTRIBUTION OF REVENUE FROM MOTOR FUEL EXCISE TAX RATE

SECTION 29.27B.(a) G.S. 105-449.125 reads as rewritten:

"§ 105-449.125. Distribution of tax revenue among various funds and accounts.

The Secretary shall allocate the amount of revenue collected under this Article from an excise tax of one-half cent (1/2¢) a gallon to the following funds and accounts in the fraction indicated:

| <u>Fund or Account</u> | <u>Amount</u> |
|---------------------------------------|-------------------------|
| Commercial Leaking Petroleum | |
| Underground Storage Tank Cleanup Fund | Nineteen thirty-seconds |
| Noncommercial Leaking Petroleum | |
| Underground Storage Tank Cleanup Fund | Three thirty-seconds |
| Water and Air Quality Account | Five-sixteenths. |

The Secretary shall allocate ~~seventy-five percent (75%)~~ seventy percent (70%) of the remaining excise tax revenue collected under this Article to the Highway Fund and shall allocate ~~twenty-five percent (25%)~~ thirty percent (30%) to the Highway Trust Fund.

The Secretary shall charge a proportionate share of a refund allowed under this Article to each fund or account to which revenue collected under this Article is credited. The Secretary shall credit revenue or charge refunds to the appropriate funds or accounts on a monthly basis."

SECTION 29.27B.(b) G.S. 105-449.125, as amended by subsection (a) of this section, reads as rewritten:

"§ 105-449.125. Distribution of tax revenue among various funds and accounts.

The Secretary shall allocate the amount of revenue collected under this Article from an excise tax of one-half cent (1/2¢) a gallon to the following funds and accounts in the fraction indicated:

| <u>Fund or Account</u> | <u>Amount</u> |
|---------------------------------------|-------------------------|
| Commercial Leaking Petroleum | |
| Underground Storage Tank Cleanup Fund | Nineteen thirty-seconds |

1 Nonecommercial Leaking Petroleum
 2 Underground Storage Tank Cleanup Fund Three thirty-seconds
 3 Water and Air Quality Account Five-sixteenths.
 4 The Secretary shall allocate seventy percent (70%) of the remaining excise tax revenue
 5 collected under this Article to the Highway Fund and shall allocate thirty percent (30%) to the
 6 Highway Trust Fund.

7 The Secretary shall charge a proportionate share of a refund allowed under this Article to
 8 each fund or account to which revenue collected under this Article is credited. The Secretary
 9 shall credit revenue or charge refunds to the appropriate funds or accounts on a monthly basis."

10 **SECTION 29.27B.(c)** Subsection (b) of this section becomes effective July 1,
 11 2016, and applies to revenue collected on or after that date.

12
 13 **INCREASE AND ADJUST DMV FEES**

14 **SECTION 29.30.(a)** G.S. 20-7(i1) reads as rewritten:

15 "(i1) Restoration Fee. – Any person whose drivers license has been revoked pursuant to
 16 the provisions of this Chapter, other than G.S. 20-17(a)(2) shall pay a restoration fee of fifty
 17 dollars (\$50.00). A person whose drivers license has been revoked under G.S. 20-17(a)(2) shall
 18 pay a restoration fee of one hundred dollars (\$100.00). The fee shall be paid to the Division
 19 prior to the issuance to such person of a new drivers license or the restoration of the drivers
 20 license. The restoration fee shall be paid to the Division in addition to any and all fees which
 21 may be provided by law. This restoration fee shall not be required from any licensee whose
 22 license was revoked or voluntarily surrendered for medical or health reasons whether or not a
 23 medical evaluation was conducted pursuant to this Chapter. The fifty-dollar (\$50.00) fee, and
 24 the ~~first fifty dollars (\$50.00)~~ seventy-five dollars (\$75.00) of the one-hundred-dollar (\$100.00)
 25 fee, shall be deposited in the Highway Fund. Twenty-five dollars (\$25.00) of the
 26 one-hundred-dollar (\$100.00) fee shall be used to fund a statewide chemical alcohol testing
 27 program administered by the Forensic Tests for Alcohol Branch of the Chronic Disease and
 28 Injury Section of the Department of Health and Human Services. ~~The remainder of the~~
 29 ~~one-hundred-dollar (\$100.00) fee shall be deposited in the General Fund.~~ The Office of State
 30 Budget and Management shall annually report to the General Assembly the amount of fees
 31 ~~deposited in the General Fund and~~ transferred to the Forensic Tests for Alcohol Branch of the
 32 Chronic Disease and Injury Section of the Department of Health and Human Services under
 33 this subsection.

34 ~~Effective with the 2011-2012 fiscal year, from the funds deposited in the General Fund~~
 35 ~~under this subsection the sum of five hundred thirty seven thousand four hundred fifty five~~
 36 ~~dollars (\$537,455) shall be transferred annually to the Board of Governors of The University of~~
 37 ~~North Carolina to be used for the operating expenses of the Bowles Center for Alcohol Studies~~
 38 ~~at The University of North Carolina at Chapel Hill."~~

39 **SECTION 29.30.(a1)** G.S. 20-7, as amended by subsection (a) of this section,
 40 reads as rewritten:

41 "**§ 20-7. Issuance and renewal of drivers licenses.**

42 ...
 43 (i) Fees. – The fee for a regular drivers license is the amount set in the following table
 44 multiplied by the number of years in the period for which the license is issued:

| Class of Regular License | Fee for Each Year |
|--------------------------|----------------------|
| Class A | \$4.00 <u>\$5.00</u> |
| Class B | \$4.00 <u>\$5.00</u> |
| Class C | \$4.00 <u>\$5.00</u> |

49 The fee for a motorcycle endorsement is ~~one dollar and seventy-five cents (\$1.75)~~ two dollars
 50 (\$2.00) for each year of the period for which the endorsement is issued. The appropriate fee
 51 shall be paid before a person receives a regular drivers license or an endorsement.

1 (i1) Restoration Fee. – Any person whose drivers license has been revoked pursuant to
2 the provisions of this Chapter, other than G.S. 20-17(a)(2) shall pay a restoration fee of ~~fifty~~
3 ~~dollars (\$50.00)-sixty dollars (\$60.00)~~. A person whose drivers license has been revoked under
4 G.S. 20-17(a)(2) shall pay a restoration fee of ~~one hundred dollars (\$100.00)-one hundred~~
5 ~~twenty dollars (\$120.00)~~. The fee shall be paid to the Division prior to the issuance to such
6 person of a new drivers license or the restoration of the drivers license. The restoration fee shall
7 be paid to the Division in addition to any and all fees which may be provided by law. This
8 restoration fee shall not be required from any licensee whose license was revoked or voluntarily
9 surrendered for medical or health reasons whether or not a medical evaluation was conducted
10 pursuant to this Chapter. The ~~fifty dollar (\$50.00)-sixty-dollar (\$60.00)~~ fee, and the first
11 ~~seventy five dollars (\$75.00)-ninety-five dollars (\$95.00)~~ of the ~~one hundred dollar~~
12 ~~(\$100.00)-one-hundred-twenty-dollar (\$120.00)~~ fee, shall be deposited in the Highway Fund.
13 Twenty-five dollars (\$25.00) of the ~~one hundred dollar (\$100.00)-one-hundred-twenty-dollar~~
14 ~~(\$120.00)~~ fee shall be used to fund a statewide chemical alcohol testing program administered
15 by the Forensic Tests for Alcohol Branch of the Chronic Disease and Injury Section of the
16 Department of Health and Human Services. The Office of State Budget and Management shall
17 annually report to the General Assembly the amount of fees transferred to the Forensic Tests
18 for Alcohol Branch of the Chronic Disease and Injury Section of the Department of Health and
19 Human Services under this subsection.

20 ...

21 (l) Learner's Permit. – A person who is at least 18 years old may obtain a learner's
22 permit. A learner's permit authorizes the permit holder to drive a specified type or class of
23 motor vehicle while in possession of the permit. A learner's permit is valid for a period of 18
24 months after it is issued. The fee for a learner's permit is ~~fifteen dollars (\$15.00)-eighteen~~
25 ~~dollars (\$18.00)~~. A learner's permit may be renewed, or a second learner's permit may be
26 issued, for an additional period of 18 months. The permit holder must, while operating a motor
27 vehicle over the highways, be accompanied by a person who is licensed to operate the motor
28 vehicle being driven and is seated beside the permit holder.

29"

30 **SECTION 29.30.(b)** G.S. 20-11(j) reads as rewritten:

31 "(j) Duration and Fee. — A limited learner's permit expires on the eighteenth birthday of
32 the permit holder. A limited provisional license expires on the eighteenth birthday of the
33 license holder. A limited learner's permit or limited provisional license issued under this section
34 that expires on a weekend or State holiday shall remain valid through the fifth regular State
35 business day following the date of expiration. A full provisional license expires on the date set
36 under G.S. 20-7(f). The fee for a limited learner's permit or a limited provisional license is
37 ~~fifteen dollars (\$15.00)-eighteen dollars (\$18.00)~~. The fee for a full provisional license is the
38 amount set under G.S. 20-7(i)."

39 **SECTION 29.30.(c)** G.S. 20-14 reads as rewritten:

40 "**§ 20-14. Duplicate licenses.**

41 A person may obtain a duplicate of a license issued by the Division by paying a fee of ~~ten~~
42 ~~dollars (\$10.00)-twelve dollars (\$12.00)~~ and giving the Division satisfactory proof that any of
43 the following has occurred:

- 44 (1) The person's license has been lost or destroyed.
- 45 (2) It is necessary to change the name or address on the license.
- 46 (3) Because of age, the person is entitled to a license with a different color
47 photographic background or a different color border.
- 48 (4) The Division revoked the person's license, the revocation period has expired,
49 and the period for which the license was issued has not expired."

50 **SECTION 29.30.(d)** G.S. 20-16(e) reads as rewritten:

"(e) The Division may conduct driver improvement clinics for the benefit of those who have been convicted of one or more violations of this Chapter. Each driver attending a driver improvement clinic shall pay a fee of ~~fifty dollars (\$50.00)~~ sixty dollars (\$60.00)."

SECTION 29.30.(e) G.S. 20-26(c) reads as rewritten:

"(c) The Division shall furnish copies of license records required to be kept by subsection (a) of this section in accordance with G.S. 20-43.1 to other persons for uses other than official upon prepayment of the following fees:

- (1) Limited extract copy of license record, for period up to three years ~~\$8.00~~ \$10.00
- (2) Complete extract copy of license record ~~8.00~~ 10.00
- (3) Certified true copy of complete license record ~~11.00~~ 13.00.

All fees received by the Division under this subsection shall be credited to the Highway Fund."

SECTION 29.30.(f) G.S. 20-37.15(a1) reads as rewritten:

"(a1) The application must be accompanied by a nonrefundable application fee of ~~thirty dollars (\$30.00)~~ thirty-six dollars (\$36.00). This fee does not apply in any of the following circumstances:

- (1) When an individual surrenders a commercial driver learner's permit issued by the Division when submitting the application.
- (2) When the application is to renew a commercial drivers license issued by the Division.

This fee shall entitle the applicant to three attempts to pass the written knowledge test without payment of a new fee. No application fee shall be charged to an applicant eligible for a waiver under G.S. 20-37.13(c)."

SECTION 29.30.(g) G.S. 20-37.16(d) reads as rewritten:

"(d) The fee for a Class A, B, or C commercial drivers license is ~~fifteen dollars (\$15.00)~~ eighteen dollars (\$18.00) for each year of the period for which the license is issued. The fee for each endorsement is ~~three dollars (\$3.00)~~ four dollars (\$4.00) for each year of the period for which the endorsement is issued. The fees required under this section do not apply to employees of the Driver License Section of the Division who are designated by the Commissioner."

SECTION 29.30.(h) G.S. 20-42(b) reads as rewritten:

"(b) The Commissioner and officers of the Division designated by the Commissioner may prepare under the seal of the Division and deliver upon request a certified copy of any document of the Division for a fee. The fee for a document, other than an accident report under G.S. 20-166.1, is ~~ten dollars (\$10.00)~~ twelve dollars (\$12.00). The fee for an accident report is ~~five dollars (\$5.00)~~ six dollars (\$6.00). A certified copy shall be admissible in any proceeding in any court in like manner as the original thereof, without further certification. The certification fee does not apply to a document furnished for official use to a judicial official or to an official of the federal government, a state government, or a local government."

SECTION 29.30.(i) G.S. 20-85(a) reads as rewritten:

"(a) The following fees are imposed concerning a certificate of title, a registration card, or a registration plate for a motor vehicle. These fees are payable to the Division and are in addition to the tax imposed by Article 5A of Chapter 105 of the General Statutes.

- (1) Each application for certificate of title ~~\$40.00~~ \$48.00
- (2) Each application for duplicate or corrected certificate of title ~~15.00~~ 18.00
- (3) Each application of reposessor for certificate of title ~~15.00~~ 18.00
- (4) Each transfer of registration ~~15.00~~ 18.00
- (5) Each set of replacement registration plates ~~15.00~~ 18.00
- (6) Each application for duplicate registration card ~~15.00~~ 18.00
- (7) Each application for recording supplementary lien ~~15.00~~ 18.00

- 1 (8) Each application for removing a lien from a certificate of
- 2 title ~~15.00~~18.00
- 3 (9) Each application for certificate of title for a motor vehicle transferred to a
- 4 manufacturer, as defined in G.S. 20-286, or a motor vehicle retailer for the
- 5 purpose of resale ~~15.00~~18.00
- 6 (10) Each application for a salvage certificate of title made by an insurer or by a
- 7 used motor vehicle dealer pursuant to subdivision (b)(2) or subsection (e1)
- 8 of G.S. 20-109.1 ~~15.00~~18.00
- 9 (11) Each set of replacement Stock Car Racing Theme plates issued under
- 10 G.S. 20-79.4 25.00."

11 **SECTION 29.30.(j)** G.S. 20-85.1(b) reads as rewritten:

12 "(b) The Commissioner and the employees of the Division designated by the
13 Commissioner may prepare and deliver upon request a certificate of title, charging a fee of
14 ~~seventy five dollars (\$75.00)~~ninety dollars (\$90.00) for one-day title service, in lieu of the title
15 fee required by G.S. 20-85(a). The fee for one-day title service must be paid by cash or by
16 certified check. This fee shall be credited to the Highway Trust Fund."

17 **SECTION 29.30.(k)** G.S. 20-87 reads as rewritten:

18 **"§ 20-87. Passenger vehicle registration fees.**

19 These fees shall be paid to the Division annually for the registration and licensing of
20 passenger vehicles, according to the following classifications and schedules:

- 21 (1) For-Hire Passenger Vehicles. – The fee for a passenger vehicle that is
- 22 operated for compensation and has a capacity of 15 passengers or less is
- 23 ~~seventy eight dollars (\$78.00)~~ninety-four dollars (\$94.00). The fee for a
- 24 passenger vehicle that is operated for compensation and has a capacity of
- 25 more than 15 passengers is ~~one dollar and forty cents (\$1.40)~~one dollar and
- 26 seventy cents (\$1.70) per hundred pounds of empty weight of the vehicle.

- 27 (2) U-Drive-It Vehicles. – U-drive-it vehicles shall pay the following tax:

| | | | |
|----|--------------|------------------------------|-------------------------------------|
| 28 | Motorcycles: | 1-passenger capacity..... | \$18.00 <u>\$22.00</u> |
| 29 | | 2-passenger capacity..... | 22.00 <u>26.00</u> |
| 30 | | 3-passenger capacity..... | 26.00 <u>31.00</u> |
| 31 | Automobiles: | 15 or fewer passengers | \$51.00 <u>\$61.00</u> |
| 32 | Buses: | 16 or more passengers | \$2.00 <u>\$2.40</u> per |
| 33 | | | hundred |
| 34 | | | pounds of |
| 35 | | | empty weight |

| | | | |
|----|---------------|-------------------|------------------------------------|
| 36 | Trucks under | | |
| 37 | 7,000 pounds | | |
| 38 | that do not | | |
| 39 | haul products | | |
| 40 | for hire: | 4,000 pounds..... | \$41.50 <u>\$50.00</u> |
| 41 | | 5,000 pounds..... | \$51.00 <u>\$61.00</u> |
| 42 | | 6,000 pounds..... | \$61.00 <u>\$73.00.</u> |

- 43 ...
- 44 (5) Private Passenger Vehicles. – There shall be paid to the Division annually,
- 45 as of the first day of January, for the registration and licensing of private
- 46 passenger vehicles, fees according to the following classifications and
- 47 schedules:

| | | | |
|----|---|-----------------------------------|--|
| 48 | Private passenger vehicles of not more than | | |
| 49 | fifteen passengers | \$28.00 <u>\$34.00</u> | |
| 50 | Private passenger vehicles over fifteen passengers..... | 31.00 <u>37.00</u> | |

1 Provided, that a fee of only ~~one dollar (\$1.00)~~ one dollar and twenty cents
 2 (\$1.20) shall be charged for any vehicle given by the federal government to
 3 any veteran on account of any disability suffered during war so long as such
 4 vehicle is owned by the original donee or other veteran entitled to receive
 5 such gift under Title 38, section 252, United States Code Annotated.

6 (6) Private Motorcycles. – The base fee on private passenger motorcycles shall
 7 be ~~fifteen dollars (\$15.00);~~ eighteen dollars (\$18.00); except that when a
 8 motorcycle is equipped with an additional form of device designed to
 9 transport persons or property, the base fee shall be ~~twenty-two dollars~~
 10 ~~(\$22.00);~~ twenty-six dollars (\$26.00). An additional fee of three dollars
 11 (\$3.00) is imposed on each private motorcycle registered under this
 12 subdivision in addition to the base fee. The revenue from the additional fee,
 13 in addition to any other funds appropriated for this purpose, shall be used to
 14 fund the Motorcycle Safety Instruction Program created in G.S. 115D-72.

15 ...
 16 (9) House Trailers. – In lieu of other registration and license fees levied on
 17 house trailers under this section or G.S. 20-88, the registration and license
 18 fee on house trailers shall be ~~eleven dollars (\$11.00)~~ thirteen dollars (\$13.00)
 19 for the license year or any portion thereof.

20 ...
 21 (11) Any vehicle fee determined under this section according to the weight of the
 22 vehicle shall be increased by the sum of ~~three dollars (\$3.00)~~ four dollars
 23 (\$4.00) to arrive at the total fee.

24 ...
 25 (13) Additional fee for certain electric vehicles. – At the time of an initial
 26 registration or registration renewal, the owner of a plug-in electric vehicle
 27 that is not a low-speed vehicle and that does not rely on a nonelectric source
 28 of power shall pay a fee in the amount of ~~one hundred dollars (\$100.00)~~ one
 29 hundred twenty dollars (\$120.00) in addition to any other required
 30 registration fees."

31 **SECTION 29.30.(1)** G.S. 20-88 reads as rewritten:

32 **"§ 20-88. Property-hauling vehicles.**

33 ...
 34 (b) The following fees are imposed on the annual registration of self-propelled
 35 property-hauling vehicles; the fees are based on the type of vehicle and its weight:

36 **SCHEDULE OF WEIGHTS AND RATES**
 37 **Rates Per Hundred Pound Gross Weight**

| | |
|--------------------------------------|---------------------------------|
| | Farmer Rate |
| 39 Not over 4,000 pounds | \$0.29 <u>\$0.35</u> |
| 40 4,001 to 9,000 pounds inclusive | .40 <u>.48</u> |
| 41 9,001 to 13,000 pounds inclusive | .50 <u>.60</u> |
| 42 13,001 to 17,000 pounds inclusive | .68 <u>.82</u> |
| 43 Over 17,000 pounds | .77 <u>.92</u> |

44 **Rates Per Hundred Pound Gross Weight**

| | |
|--------------------------------------|---------------------------------|
| | General Rate |
| 46 Not over 4,000 pounds | \$0.59 <u>\$0.71</u> |
| 47 4,001 to 9,000 pounds inclusive | .81 <u>.97</u> |
| 48 9,001 to 13,000 pounds inclusive | 1.00 <u>1.20</u> |
| 49 13,001 to 17,000 pounds inclusive | 1.36 <u>1.63</u> |
| 50 Over 17,000 pounds | 1.54 <u>1.85</u> |

1 (1) The minimum fee for a vehicle licensed under this subsection is ~~twenty-four~~
 2 ~~dollars (\$24.00)~~twenty-nine dollars (\$29.00) at the farmer rate and
 3 ~~twenty-eight dollars (\$28.00)~~thirty-four dollars (\$34.00) at the general rate.

4 ...
 5 (6) There shall be paid to the Division annually the following fees for
 6 "wreckers" as defined under G.S. 20-4.01(50): a wrecker fully equipped
 7 weighing 7,000 pounds or less, ~~seventy-five dollars (\$75.00)~~ninety dollars
 8 (\$90.00); wreckers weighing in excess of 7,000 pounds shall pay ~~one~~
 9 ~~hundred forty-eight dollars (\$148.00)~~one hundred seventy-eight dollars
 10 (\$178.00). Fees to be prorated monthly. Provided, further, that nothing
 11 herein shall prohibit a licensed dealer from using a dealer's license plate to
 12 tow a vehicle for a customer.

13 (c) The fee for a semitrailer or trailer is ~~nineteen dollars (\$19.00)~~twenty-three dollars
 14 (\$23.00) for each year or part of a year. The fee is payable each year. Upon the application of
 15 the owner of a semitrailer or trailer, the Division may issue a multiyear plate and registration
 16 card for the semitrailer or trailer for a fee of ~~seventy-five dollars (\$75.00)~~ninety dollars
 17 (\$90.00). A multiyear plate and registration card for a semitrailer or trailer are valid until the
 18 owner transfers the semitrailer or trailer to another person or surrenders the plate and
 19 registration card to the Division. A multiyear plate may not be transferred to another vehicle.

20 The Division shall issue a multiyear semitrailer or trailer plate in a different color than an
 21 annual semitrailer or trailer plate and shall include the word "multiyear" on the plate. The
 22 Division may not issue a multiyear plate for a house trailer.

23 ...
 24 (i) Any vehicle fee determined under this section according to the weight of the vehicle
 25 shall be increased by the sum of ~~three dollars (\$3.00)~~four dollars (\$4.00) to arrive at the total
 26 fee.

27"

28 **SECTION 29.30.(m)** G.S. 20-289(a) reads as rewritten:

- 29 "(a) The license fee for each fiscal year, or part thereof, shall be as follows:
- 30 (1) For motor vehicle dealers, distributors, distributor branches, and
 31 wholesalers, ~~seventy dollars (\$70.00)~~eighty-four dollars (\$84.00) for each
 32 place of business.
 - 33 (2) For manufacturers, ~~one hundred fifty dollars (\$150.00)~~one hundred eighty
 34 dollars (\$180.00) and for each factory branch in this State, ~~one hundred~~
 35 ~~dollars (\$100.00)~~one hundred twenty dollars (\$120.00).
 - 36 (3) For motor vehicle sales representatives, ~~fifteen dollars (\$15.00)~~eighteen
 37 dollars (\$18.00).
 - 38 (4) For factory representatives, or distributor representatives, ~~fifteen dollars~~
 39 ~~(\$15.00)~~eighteen dollars (\$18.00).
 - 40 (5) Repealed by Session Laws 1991, c. 662, s. 4."

41 **SECTION 29.30.(n)** G.S. 20-385(a) reads as rewritten:

42 "(a) The fees listed in this section apply to a motor carrier. These fees are in addition to
 43 any fees required under the Unified Carrier Registration Agreement.

- 44 (1) Repealed by Session Laws 2007-492, s. 5, effective August 30, 2007.
- 45 (2) Application by an intrastate motor carrier for a
 46 certificate of exemption 45-0054.00
- 47 (3) Certification by an interstate motor carrier that it is
 48 not regulated by the United States Department
 49 of Transportation 45-0054.00
- 50 (4) Application by an interstate motor carrier for an
 51 emergency trip permit 18-00-22.00."

1 **SECTION 29.30.(o)** G.S. 44A-4(b)(1) reads as rewritten:

2 "(b) Notice and Hearings. –

3 (1) If the property upon which the lien is claimed is a motor vehicle that is
4 required to be registered, the lienor following the expiration of the relevant
5 time period provided by subsection (a) shall give notice to the Division of
6 Motor Vehicles that a lien is asserted and sale is proposed and shall remit to
7 the Division a fee of ~~ten dollars (\$10.00)~~ twelve dollars (\$12.00). The
8 Division of Motor Vehicles shall issue notice by certified mail, return receipt
9 requested, to the person having legal title to the property, if reasonably
10 ascertainable, to the person with whom the lienor dealt if different, and to
11 each secured party and other person claiming an interest in the property who
12 is actually known to the Division or who can be reasonably ascertained. The
13 notice shall state that a lien has been asserted against specific property and
14 shall identify the lienor, the date that the lien arose, the general nature of the
15 services performed and materials used or sold for which the lien is asserted,
16 the amount of the lien, and that the lienor intends to sell the property in
17 satisfaction of the lien. The notice shall inform the recipient that the
18 recipient has the right to a judicial hearing at which time a determination
19 will be made as to the validity of the lien prior to a sale taking place. The
20 notice shall further state that the recipient has a period of 10 days from the
21 date of receipt in which to notify the Division by certified mail, return
22 receipt requested, that a hearing is desired and that if the recipient wishes to
23 contest the sale of his property pursuant to such lien, the recipient should
24 notify the Division that a hearing is desired. The notice shall state the
25 required information in simplified terms and shall contain a form whereby
26 the recipient may notify the Division that a hearing is desired by the return
27 of such form to the Division. The Division shall notify the lienor whether
28 such notice is timely received by the Division. In lieu of the notice by the
29 lienor to the Division and the notices issued by the Division described
30 above, the lienor may issue notice on a form approved by the Division
31 pursuant to the notice requirements above. If notice is issued by the lienor,
32 the recipient shall return the form requesting a hearing to the lienor, and not
33 the Division, within 10 days from the date the recipient receives the notice if
34 a judicial hearing is requested. If the certified mail notice has been returned
35 as undeliverable and the notice of a right to a judicial hearing has been given
36 to the owner of the motor vehicle in accordance with G.S. 20-28.4, no
37 further notice is required. Failure of the recipient to notify the Division or
38 lienor, as specified in the notice, within 10 days of the receipt of such notice
39 that a hearing is desired shall be deemed a waiver of the right to a hearing
40 prior to the sale of the property against which the lien is asserted, and the
41 lienor may proceed to enforce the lien by public or private sale as provided
42 in this section and the Division shall transfer title to the property pursuant to
43 such sale. If the Division or lienor, as specified in the notice, is notified
44 within the 10-day period provided above that a hearing is desired prior to
45 sale, the lien may be enforced by sale as provided in this section and the
46 Division will transfer title only pursuant to the order of a court of competent
47 jurisdiction.

48 If the certified mail notice has been returned as undeliverable, or if the
49 name of the person having legal title to the vehicle cannot reasonably be
50 ascertained and the fair market value of the vehicle is less than eight hundred
51 dollars (\$800.00), the lienor may institute a special proceeding in the county

1 where the vehicle is being held, for authorization to sell that vehicle. Market
2 value shall be determined by the schedule of values adopted by the
3 Commissioner under G.S. 105-187.3.

4 In such a proceeding a lienor may include more than one vehicle, but the
5 proceeds of the sale of each shall be subject only to valid claims against that
6 vehicle, and any excess proceeds of the sale shall be paid immediately to the
7 Treasurer for disposition pursuant to Chapter 116B of the General Statutes.

8 The application to the clerk in such a special proceeding shall contain the
9 notice of sale information set out in subsection (f) hereof. If the application
10 is in proper form the clerk shall enter an order authorizing the sale on a date
11 not less than 14 days therefrom, and the lienor shall cause the application
12 and order to be sent immediately by first-class mail pursuant to G.S. 1A-1,
13 Rule 5, to each person to whom notice was mailed pursuant to this
14 subsection. Following the authorized sale the lienor shall file with the clerk a
15 report in the form of an affidavit, stating that the lienor has complied with
16 the public or private sale provisions of G.S. 44A-4, the name, address, and
17 bid of the high bidder or person buying at a private sale, and a statement of
18 the disposition of the sale proceeds. The clerk then shall enter an order
19 directing the Division to transfer title accordingly.

20 If prior to the sale the owner or legal possessor contests the sale or lien in
21 a writing filed with the clerk, the proceeding shall be handled in accordance
22 with G.S. 1-301.2."

23 **SECTION 29.30.(p)** Article 1 of Chapter 20 of the General Statutes is amended by
24 adding a new section to read:

25 **"§ 20-4.02. Quadrennial adjustment of certain fees.**

26 (a) Adjustment for Inflation. – Beginning July 1, 2020, and every four years thereafter,
27 the Division shall adjust the fees charged pursuant to the statutes listed in this subsection for
28 inflation in accordance with the Consumer Price Index computed by the Bureau of Labor
29 Statistics, rounded to the nearest twenty-five cents (25¢):

30 (1) G.S. 20-7.

31 (2) G.S. 20-11.

32 (3) G.S. 20-14.

33 (4) G.S. 20-16.

34 (5) G.S. 20-26.

35 (6) G.S. 20-37.15.

36 (7) G.S. 20-37.16.

37 (8) G.S. 20-42(b).

38 (9) G.S. 20-85(a)(1) through (10).

39 (10) G.S. 20-85.1.

40 (11) G.S. 20-87, except for the additional fee set forth in G.S. 20-87(6) for private
41 motorcycles.

42 (12) G.S. 20-88.

43 (13) G.S. 20-289.

44 (14) G.S. 20-385.

45 (15) G.S. 44A-4(b)(1).

46 (b) Computation. – In determining the rate of inflation to use when adjusting the fees
47 pursuant to subsection (a) of this section, the Division shall base the rate on the percent change
48 in the annual Consumer Price Index over the preceding four-year period.

49 (c) Rules. – The provisions of Chapter 150B of the General Statutes shall not apply to
50 the adjustment of fees required by this section.

1 (d) Consultation and Publication. – At least 90 days prior to adjusting the fees pursuant
2 to subsection (a) of this section, the Division shall (i) consult with the Joint Legislative
3 Commission on Governmental Operations, (ii) provide a report to the chairs of the Senate
4 Appropriations Committee on the Department of Transportation and the House of
5 Representatives Committee on Transportation Appropriations, and (iii) publish notice of the
6 fees that will be in effect in the offices of the Division and on the Division's Web site."

7 **SECTION 29.30.(q)** G.S. 150B-1(d) is amended by adding a new subdivision to
8 read:

9 "(27) The Division of Motor Vehicles with respect to fee adjustments under
10 G.S. 20-4.02."

11 **SECTION 29.30.(r)** Subsections (a) and (r) of this section become effective July 1,
12 2015. Subsections (p) and (q) of this section become effective July 1, 2020. The remainder of
13 this section becomes effective January 1, 2016, and applies to issuances, renewals, restorations,
14 and requests on or after that date.

15 **DMV HEARING FEE SCHEDULE IMPLEMENTATION DATE**

16 **SECTION 29.30A.** Subsection (c) of Section 34.9 of S.L. 2014-100 reads as
17 rewritten:

18 "**SECTION 34.9.(c)** From funds appropriated to the Department of Transportation,
19 Information Technology Section for the 2014-2015 fiscal year, the Department shall implement
20 modifications to supporting information technology systems necessary to timely implement the
21 hearing fee schedule required by subsection (a) of this section. The Department shall
22 implement the hearing fee schedule required by subsection (a) of this section by no later than
23 ~~January 1, 2016.~~July 1, 2017."

24 **DISTRIBUTION OF FUNDS IN SPECIAL REGISTRATION PLATE ACCOUNT**

25 **SECTION 29.30B.** G.S. 20-79.7(c)(3) reads as rewritten:

26 (3) The Division shall transfer fifty percent (50%) of the remaining revenue in
27 the Special Registration Plate Account quarterly, and funds are hereby
28 appropriated, as follows: to the Department of Transportation to be used
29 solely for the purpose of beautification of highways. These funds shall be
30 administered by the Department of Transportation for beautification
31 purposes not inconsistent with good landscaping and engineering principles.
32 The Division shall transfer the remaining revenue in the Special Registration
33 Plate Account quarterly to the Highway Fund.

34 a. ~~Thirty three percent (33%) to the account of the Department of~~
35 ~~Commerce to aid in financing out of state print and other media~~
36 ~~advertising under the program for the promotion of travel and~~
37 ~~industrial development in this State.~~

38 b. ~~Fifty percent (50%) to the Department of Transportation to be used~~
39 ~~solely for the purpose of beautification of highways. These funds~~
40 ~~shall be administered by the Department of Transportation for~~
41 ~~beautification purposes not inconsistent with good landscaping and~~
42 ~~engineering principles.~~

43 c. ~~Seventeen percent (17%) to the account of the Department of Health~~
44 ~~and Human Services to promote travel accessibility for disabled~~
45 ~~persons in this State. These funds shall be used to collect and update~~
46 ~~site information on travel attractions designated by the Department of~~
47 ~~Commerce in its publications, to provide technical assistance to~~
48 ~~travel attractions concerning accommodation of disabled tourists, and~~
49 ~~to develop, print, and promote the publication ACCESS NORTH~~
50
51

CAROLINA as provided in G.S. 168-2. Any funds allocated for these purposes that are neither spent nor obligated at the end of the fiscal year shall be transferred to the Department of Administration for removal of man-made barriers to disabled travelers at State funded travel attractions. Guidelines for the removal of man-made barriers shall be developed in consultation with the Department of Health and Human Services."

ENFORCING PENALTIES FOR LAPSE IN FINANCIAL RESPONSIBILITY

SECTION 29.31.(a) G.S. 20-311 reads as rewritten:

"§ 20-311. Action by the Division when notified of a lapse in financial responsibility.

(a) Action. – When the Division receives evidence, by a notice of termination of a motor vehicle liability policy or otherwise, that the owner of a motor vehicle registered or required to be registered in this State does not have financial responsibility for the operation of the vehicle, the Division shall send the owner a letter. The letter shall notify the owner of the evidence and inform the owner that the owner shall respond to the letter within 10 days of the date on the letter and explain how the owner has met the duty to have continuous financial responsibility for the vehicle. Based on the owner's response, the Division shall take the appropriate action listed:

(1) Division correction. – If the owner responds within the required time and the response establishes that the owner has not had a lapse in financial responsibility, the Division shall correct its records.

(2) Penalty only. – If the owner responds within the required time and the response establishes all of the following, the Division shall assess the owner a penalty in the amount set in subsection (b) of this section:

- a. The owner had a lapse in financial responsibility, but the owner now has financial responsibility.
- b. The vehicle was not involved in an accident during the lapse in financial responsibility.
- c. The owner did not operate the vehicle or allow the vehicle to be operated during the lapse with knowledge that the owner had no financial responsibility for the vehicle.

(3) Penalty and revocation. – If the owner responds within the required time and the response establishes ~~any~~either of the following, the Division shall assess the owner a penalty in the amount set in subsection (b) of this section and revoke the registration of the owner's vehicle for the period set in subsection (c) of this section:

- a. The owner had a lapse in financial responsibility and still does not have financial responsibility.
- b. The owner now has financial responsibility even though the owner had a lapse, but the response also establishes any of the following:
 1. The vehicle was involved in an accident during the lapse,
~~the lapse.~~
 2. The owner operated the vehicle during the lapse with knowledge that the owner had no financial responsibility for the vehicle, or both, vehicle.
 3. The owner allowed the vehicle to be operated during the lapse with knowledge that the owner had no financial responsibility for the vehicle.

(4) ~~Revocation pending response.~~ Penalty and revocation for failure to respond.
– ~~If~~Except as otherwise provided in this subdivision, if the owner does not

1 respond within the required time, the Division shall assess a penalty in the
 2 applicable amount set forth in subsection (b) of this section and shall revoke
 3 the registration of the owner's vehicle for the period set in subsection (c) of
 4 this section. ~~When the owner responds, the Division shall take the~~
 5 appropriate action listed in subdivisions (1) through (3) of this subsection as
 6 if the response had been timely.~~If the owner does not respond within the~~
 7 required time, but later responds and establishes that the owner has not had a
 8 lapse in financial responsibility, the Division shall correct its records, rescind
 9 any revocation under this subdivision of the registration of the owner's
 10 vehicle, and the owner shall not be responsible for any fee or penalty arising
 11 under this section from the owner's failure to timely respond.

12 (b) Penalty Amount. – The following table determines the amount of a penalty payable
 13 under this section by an owner who has had a lapse in financial responsibility; the amount is
 14 based on the number of times the owner has been assessed a penalty under this section during
 15 the three-year period before the date the owner's current lapse began:

| Number of Lapses in Previous Three Years | Penalty Amount |
|--|----------------|
| None | \$50.00 |
| One | \$100.00 |
| Two or More | \$150.00 |

20 (c) Revocation Period. – The revocation period for a revocation based on a response
 21 that establishes that a vehicle owner does not have financial responsibility is indefinite and ends
 22 when the owner obtains financial responsibility or transfers the vehicle to an owner who has
 23 financial responsibility. The revocation period for a revocation based on a response that
 24 establishes the occurrence of an accident during a lapse in financial responsibility or the
 25 knowing operation of a vehicle without financial responsibility is 30 days. The revocation
 26 period for a revocation based on failure of a vehicle owner to respond is indefinite and ends
 27 when the owner ~~responds~~(i) establishes that the owner has not had a lapse in financial
 28 responsibility, (ii) obtains financial responsibility, or (iii) transfers the vehicle to an owner who
 29 has financial responsibility, whichever occurs first.

30 (d) Revocation Notice. – When the Division revokes the registration of an owner's
 31 vehicle, it shall notify the owner of the revocation. The notice shall inform the owner of the
 32 following:

- 33 (1) That the owner shall return the vehicle's registration plate and registration
 34 card to the Division, if the owner has not done so already, and that failure to
 35 do so is a Class 2 misdemeanor under G.S. 20-45.
- 36 (2) That the vehicle's registration plate and registration card are subject to
 37 seizure by a law enforcement officer.
- 38 (3) That the registration of the vehicle cannot be renewed while the registration
 39 is revoked.
- 40 (4) That the owner shall pay any penalties ~~assessed~~assessed within 30 days of
 41 the date of the notice, a restoration fee, and the fee for a registration plate
 42 when the owner applies to the Division to register a vehicle whose
 43 registration was revoked.
- 44 (5) That failure of an owner to pay any penalty or fee assessed pursuant to this
 45 section shall result in the Division withholding the registration renewal of
 46 any motor vehicle registered in that owner's name.

47 (e) Registration After Revocation. – A vehicle whose registration has been revoked
 48 may not be registered during the revocation period in the name of the owner, a child of the
 49 owner, the owner's spouse, or a child of the owner's spouse. This restriction does not apply to a
 50 spouse who is living separate and apart from the owner. At the end of a revocation period, a
 51 vehicle owner who has financial responsibility may apply to register a vehicle whose

1 registration was revoked. The owner shall provide proof of current financial responsibility and
2 pay any penalty assessed, a restoration fee of fifty dollars (\$50.00), and the fee for a
3 registration plate. Pursuant to G.S. 20-54, failure of an owner to pay any penalty or fee assessed
4 pursuant to this section shall result in the Division withholding the registration renewal of any
5 motor vehicle registered in that owner's name.

6 ...

7 (g) Military Waiver. – Notwithstanding the penalty and restoration fee provisions of
8 this section, any monetary penalty or restoration fee shall be waived for any person who, at the
9 time of notification of a lapse in ~~coverage~~, financial responsibility, was deployed as a member
10 of the Armed Forces of the United States outside of the continental United States for a total of
11 45 or more days. In addition, no insurance points under the Safe Driver Incentive Plan shall be
12 assessed for any violation for which a monetary penalty or restoration fee is waived pursuant to
13 this subsection. ~~Any~~ All of the following apply to a person qualifying under this subsection
14 shall: subsection:

- 15 (1) ~~Have~~ The person shall have an affirmative defense to any criminal charge
16 based upon the failure to return any registration card or registration plate to
17 the ~~Division~~; Division.
- 18 (2) Upon reregistration, the person shall receive without cost from the Division
19 all necessary registration cards or ~~plates; and~~ plates.
- 20 (3) Upon notice of revocation, the person shall be permitted to transfer the
21 vehicle's registration immediately to his or her spouse, child, or spouse's
22 child, notwithstanding the provisions of subsection (e) of this section.

23 (h) Applicability. – The penalty and revocation imposed under this section do not apply
24 when the sole owner of a vehicle dies and that owner had financial responsibility for the vehicle
25 as of the date of the owner's death."

26 **SECTION 29.31.(b)** G.S. 20-54 is amended by adding a new subdivision to read:

27 "(12) The owner of the vehicle has failed to pay any penalty or fee imposed
28 pursuant to G.S. 20-311."

29 **SECTION 29.31.(c)** G.S. 20-311(h), as enacted by subsection (a) of this section, is
30 effective when this act becomes law. The remainder of this section becomes effective
31 December 1, 2015, and applies to lapses in financial responsibility occurring on or after that
32 date.

33 34 **LPA CONTRACT STANDARDS**

35 **SECTION 29.32.(a)** G.S. 20-63(h) reads as rewritten:

36 "(h) Commission Contracts for Issuance of Plates and Certificates. – All registration
37 plates, registration certificates, and certificates of title issued by the Division, outside of those
38 issued from the office of the Division located in Wake, Cumberland, or Mecklenburg Counties
39 and those issued and handled through the United States mail, shall be issued insofar as
40 practicable and possible through commission contracts entered into by the Division for the
41 issuance of the plates and certificates in localities throughout North Carolina, including military
42 installations within this State, with persons, firms, corporations or governmental subdivisions
43 of the State of North Carolina. The Division shall make a reasonable effort in every locality,
44 except as noted above, to enter into a commission contract for the issuance of the plates and
45 certificates and a record of these efforts shall be maintained in the Division. In the event the
46 Division is unsuccessful in making commission contracts, it shall issue the plates and
47 certificates through the regular employees of the Division. Whenever registration plates,
48 registration certificates, and certificates of title are issued by the Division through commission
49 contract arrangements, the Division shall provide proper supervision of the distribution.
50 Nothing contained in this subsection allows or permits the operation of fewer outlets in any
51 county in this State than are now being operated.

1 ~~Commission contracts entered into by the Division under this subsection shall provide for~~
2 ~~the payment of compensation.~~ The terms of a commission contract entered under this subsection
3 shall specify the duration of the contract and either include or incorporate by reference
4 standards by which the Division may supervise and evaluate the performance of the
5 commission contractor. The duration of an initial commission contract may not exceed eight
6 years and the duration of a renewal commission contract may not exceed two years. The
7 Division may award monetary performance bonuses, not to exceed an aggregate total of ninety
8 thousand dollars (\$90,000) annually, to commission contractors based on their performance.

9 The amount of compensation payable to a commission contractor is determined on a per
10 transaction basis. The collection of the highway use tax is considered a separate transaction for
11 which one dollar and ~~twenty seven cents (\$1.27)~~ thirty cents (\$1.30) compensation shall be
12 paid. The issuance of a limited registration "T" sticker and the collection of property tax are
13 each considered a separate transaction for which compensation at the rate of one dollar and
14 ~~twenty seven cents (\$1.27)~~ thirty cents (\$1.30) and one dollar and ~~six cents (\$1.06)~~ eight cents
15 (\$1.08) respectively, shall be paid by counties and municipalities as a cost of the combined
16 motor vehicle registration renewal and property tax collection system. The performance at the
17 same time of one or more of the transactions below is considered a single transaction for which
18 one dollar and ~~forty three cents (\$1.43)~~ forty-six cents (\$1.46) compensation shall be paid:

- 19 (1) Issuance of a registration plate, a registration card, a registration sticker, or a
20 certificate of title.
- 21 (2) Issuance of a handicapped placard or handicapped identification card.
- 22 (3) Acceptance of an application for a personalized registration plate.
- 23 (4) Acceptance of a surrendered registration plate, registration card, or
24 registration renewal sticker, or acceptance of an affidavit stating why a
25 person cannot surrender a registration plate, registration card, or registration
26 renewal sticker.
- 27 (5) Cancellation of a title because the vehicle has been junked.
- 28 (6) Acceptance of an application for, or issuance of, a refund for a fee or a tax,
29 other than the highway use tax.
- 30 (7) Receipt of the civil penalty imposed by G.S. 20-311 for a lapse in financial
31 responsibility or receipt of the restoration fee imposed by that statute.
- 32 (8) Acceptance of a notice of failure to maintain financial responsibility for a
33 motor vehicle.
- 34 (8a) Collection of civil penalties imposed for violations of G.S. 20-183.8A.
- 35 (8b), (9) Repealed by Session Laws 2013-372, s. 2(a), effective July 1, 2013.
- 36 (10) Acceptance of a temporary lien filing.
- 37 (11) Conversion of an existing paper title to an electronic lien upon request of a
38 primary lienholder."

39 **SECTION 29.32.(b)** All commission contracts entered into by the Division of
40 Motor Vehicles under G.S. 20-63(h) after the effective date of this subsection shall specify the
41 duration of the contract and include or incorporate by reference the standards required under
42 subsection (a) of this section. No later than July 1, 2018, all other commission contracts entered
43 into by the Division of Motor Vehicles shall specify the duration of the contract and include or
44 incorporate by reference the standards required under subsection (a) of this section.

45 **SECTION 29.32.(c)** This section becomes effective July 1, 2015, and applies to
46 transactions on or after that date.

47 **DMV/UMSTEAD ACT CLARIFICATION**

48 **SECTION 29.33.** G.S. 66-58(c) is amended by adding a new subdivision to read:

49 "(c) The provisions of subsection (a) shall not prohibit:

50 ...
51

1 (22) The operation by the Division of Motor Vehicles of digital advertising and
2 automated teller machines in offices of the Division or contract license plate
3 agencies."
4

5 **HIGHWAY USE TAX CLARIFICATION**

6 **SECTION 29.34.(a)** G.S. 105-187.6(c) reads as rewritten:

7 "(c) Out-of-state Vehicles. – A maximum tax of one hundred fifty dollars (\$150.00)
8 applies when a certificate of title is issued for a motor vehicle that, at the time of applying for a
9 certificate of title, is and has been titled in the name of the owner of the motor vehicle in
10 another state for at least 90 days.days prior to the date of application for a certificate of title in
11 this State."

12 **SECTION 29.34.(b)** This section is effective when this act becomes law.
13

14 **ADJUST MAXIMUM HIGHWAY USE TAX IMPOSED FOR CERTAIN MOTOR** 15 **VEHICLES**

16 **SECTION 29.34A.(a)** G.S. 105-187.3(a1) reads as rewritten:

17 "(a1) Tax Rate. – The tax rate is three percent (3%). The maximum tax is ~~one two~~
18 ~~thousand dollars (\$1,000)~~ (\$2,000) for each certificate of title issued for a Class A or Class B
19 motor vehicle that is a commercial motor vehicle, as defined in G.S. 20-4.01. ~~The maximum~~
20 ~~tax is one thousand five hundred dollars (\$1,500)~~ G.S. 20-4.01, and for each certificate of title
21 ~~issued for a recreational vehicle that is not subject to the one thousand dollar (\$1,000)~~
22 ~~maximum tax.~~ vehicle. The tax is payable as provided in G.S. 105-187.4."

23 **SECTION 29.34A.(b)** G.S. 105-187.6(c), as amended by Section 29.34 of this act,
24 reads as rewritten:

25 "(c) Out-of-state Vehicles. – A maximum tax of ~~one two~~ hundred fifty dollars ~~(\$150.00)~~
26 (\$250.00) applies when a certificate of title is issued for a motor vehicle that, at the time of
27 applying for a certificate of title, is and has been titled in the name of the owner of the motor
28 vehicle in another state for at least 90 days prior to the date of application for a certificate of
29 title in this State."

30 **SECTION 29.34A.(c)** This section becomes effective January 1, 2016, and applies
31 to sales made on or after that date.
32

33 **ELIMINATE 10-DAY TRIP PERMIT AND INCREASE TEMPORARY TAG FEE**

34 **SECTION 29.35.(a)** G.S. 20-183.4C reads as rewritten:

35 **"§ 20-183.4C. When a vehicle must be inspected; 10-day ~~trip permit~~ temporary license**
36 **plate.**

37 ...

38 (b) ~~Permit~~ Temporary License Plate. – The Division may issue a ~~10-day trip permit~~
39 temporary license plate under and in accordance with G.S. 20-50(b) that is valid for 10 days
40 to a person that authorizes the person to drive a vehicle whose inspection authorization or
41 registration has expired. The permit may only be issued when the person has furnished proof of
42 financial responsibility. The permit must describe the vehicle whose inspection authorization or
43 registration has expired. The permit authorizes the person to drive the described vehicle for a
44 period not to exceed 10 days from the date of issuance.

45 "

46 **SECTION 29.35.(b)** G.S. 20-50(b) reads as rewritten:

47 "(b) The Division may issue a temporary license plate for a vehicle. A temporary license
48 plate is valid for the period set by the Division. The period may not be less than 10 days nor
49 more than 60 days.

1 A person may obtain a temporary license plate for a vehicle by filing an application with
2 the Division and paying the required fee. An application must be filed on a form provided by
3 the Division.

4 The fee for a temporary license plate that is valid for 10 days is ~~five~~ten dollars
5 ~~(\$5.00).~~(\$10.00). The fee for a temporary license plate that is valid for more than 10 days is the
6 amount that would be required with an application for a license plate for the vehicle. If a person
7 obtains for a vehicle a temporary license plate that is valid for more than 10 days and files an
8 application for a license plate for that vehicle before the temporary license plate expires, the
9 person is not required to pay the fee that would otherwise be required for the license plate.

10 A temporary license plate is subject to the following limitations and conditions:

- 11 (1) It may be issued only upon proper proof that the applicant has met the
12 applicable financial responsibility requirements.
- 13 (2) It expires on midnight of the day set for expiration.
- 14 (3) It may be used only on the vehicle for which issued and may not be
15 transferred, loaned, or assigned to another.
- 16 (4) If it is lost or stolen, the person who applied for it must notify the Division.
- 17 (5) It may not be issued by a dealer.
- 18 (6) The provisions of G.S. 20-63, 20-71, 20-110 and 20-111 that apply to license
19 plates apply to temporary license plates insofar as possible."

20 **SECTION 29.35.(c)** Ten-day trip permits issued under G.S. 20-183.4C(b) prior to
21 the effective date of this section shall remain valid for the duration of the issuance.

22 **SECTION 29.35.(d)** This section becomes effective July 1, 2015, and applies to
23 temporary license plates issued on or after that date.

24 25 **TECHNICAL CORRECTION/REMOTE RENEWAL OF DRIVERS LICENSE**

26 **SECTION 29.36.** G.S. 20-7(f)(6) reads as rewritten:

27 "(6) Remote renewal. – ~~The~~Subject to the following requirements and
28 limitations, the Division may offer remote renewal of a drivers license issued
29 by the Division. ~~For purposes of this subdivision, "remote renewal" means~~
30 ~~renewal of a drivers license by mail, telephone, electronic device, or other~~
31 ~~secure means approved by the Commissioner.~~Division:

- 32 a. Requirements. – To be eligible for remote renewal under this
33 subdivision, a person must meet all of the following requirements:
 - 34 1. The license holder possesses a valid, unexpired Class C
35 drivers license that was issued when the person was at least
36 18 years old.
 - 37 2. The license holder's current license includes no restrictions
38 other than a restriction for corrective lenses.
 - 39 3. The license holder attests, in a manner designated by the
40 Division, that (i) the license holder is a resident of the State
41 and currently resides at the address on the license to be
42 renewed, (ii) the license holder's name as it appears on the
43 license to be renewed has not changed, and (iii) all other
44 information required by the Division for an in-person renewal
45 under this Article has been provided completely and
46 truthfully.
 - 47 4. The most recent renewal was an in-person renewal and not a
48 remote renewal under this subdivision.
 - 49 5. The license holder is otherwise eligible for renewal under this
50 subsection.

- 1 b. Waiver of requirements. – When renewing a drivers license pursuant
 2 to this subdivision, the Division may waive the examination and
 3 photograph that would otherwise be required for the renewal.
 4 c. Duration of remote renewal. – A renewed drivers license issued to a
 5 person by remote renewal under this subdivision expires according to
 6 the following schedule:
 7 1. For a person at least 18 years old but less than 66 years old,
 8 on the birthday of the licensee in the eighth year after
 9 issuance.
 10 2. For a person at least 66 years old, on the birthday of the
 11 licensee in the fifth year after issuance.
 12 d. Rules. – The Division shall adopt rules to implement this
 13 subdivision.
 14 e. Federal law. – Nothing in this subdivision shall be construed to
 15 supersede any more restrictive provisions for renewal of drivers
 16 licenses prescribed by federal law or regulation.
 17 f. Definition. – For purposes of this subdivision, "remote renewal"
 18 means renewal of a drivers license by mail, telephone, electronic
 19 device, or other secure means approved by the Commissioner."
 20

21 VISITOR CENTERS FUNDING TECHNICAL CORRECTION

22 **SECTION 29.36A.** G.S. 20-79.7(c)(2)d. reads as rewritten:

23 "(c) Use of Funds in Special Registration Plate Account. –

24 ...

25 (2) From the funds remaining in the Special Registration Plate Account after the
 26 deductions in accordance with subdivision (1) of this subsection, there is
 27 annually appropriated from the Special Registration Plate Account the sum
 28 of one million three hundred thousand dollars (\$1,300,000) to provide
 29 operating assistance for the Visitor Centers:

30 ...

31 d. ~~in the Town of Boone, Watauga County,~~ ninety-two thousand eight
 32 hundred fifty-seven dollars (\$92,857);

33"

35 STOP LAMPS ON MOTOR VEHICLE/CLARIFICATION

36 **SECTION 29.36B.(a)** G.S. 20-129(g), as amended by Section 1 of S.L. 2015-31,
 37 reads as rewritten:

38 "(g) No person shall sell or operate on the highways of the State any motor vehicle
 39 manufactured after December 31, 1955, and on or before December 31, 1970, unless it shall be
 40 equipped with a stop lamp on the rear of the vehicle. No person shall sell or operate on the
 41 highways of the State any motor vehicle, manufactured after December 31, 1970, unless it shall
 42 be equipped with stop lamps, one on each side of the rear of the vehicle. No person shall sell or
 43 operate on the highways of the State any motorcycle or motor-driven cycle, manufactured after
 44 December 31, ~~1970, 1955,~~ unless it shall be equipped with a stop lamp on the rear of the
 45 motorcycle or motor-driven cycle. The stop lamps shall emit, reflect, or display a red or amber
 46 light visible from a distance of not less than 100 feet to the rear in normal sunlight, and shall be
 47 actuated upon application of the service (foot) brake. The stop lamps may be incorporated into
 48 a unit with one or more other rear lamps."

49 **SECTION 29.36B.(b)** This section becomes effective October 1, 2015, and applies
 50 to offenses committed on or after that date.
 51

1 **POSITIONS IN SUPPORT OF THE COMBINED MOTOR VEHICLE**
 2 **REGISTRATION AND PROPERTY TAX COLLECTION SYSTEM**

3 **SECTION 29.37.** Section 24.10(a) of S.L. 2012-142 reads as rewritten:

4 "**SECTION 24.10.(a)** Upon request from the Department of Transportation and
 5 notwithstanding any other provision of law to the contrary, the Office of State Budget and
 6 Management may authorize the creation of time-limited, full-time equivalent positions within
 7 the Department of Transportation and its Division of Motor Vehicles in excess of the positions
 8 authorized by this act for the sole purposes of implementing and administering the combined
 9 motor vehicle registration and property tax collection system, in accordance with the funding
 10 authorizations in G.S. 105-330.5 and G.S. 105-330.10. Positions created under this
 11 authorization shall terminate no later than ~~June 30, 2014~~June 30, 2017. Following the approval
 12 of a request, the Office of State Budget and Management shall direct the transfer of funds from
 13 the Combined Motor Vehicle and Registration Account, also known as the Division of Motor
 14 Vehicles Taxation Interest Fund for Integrated Computer System, to support personnel and
 15 related operating costs for the positions approved under this section."
 16

17 **DMV/TITLE AND LICENSE PERSONAL WATERCRAFT**

18 **SECTION 29.38.** G.S. 20-39(e) reads as rewritten:

19 "(e) The Commissioner is authorized to cooperate with and provide assistance to the
 20 Environmental Management Commission, or appropriate local government officials, and to
 21 develop, adopt, and ensure enforcement of necessary rules and regulations, regarding programs
 22 of motor vehicle emissions inspection/maintenance required for areas in which ambient air
 23 pollutant concentrations exceed National Ambient Air Quality Standards. The Commissioner is
 24 further authorized to allow offices of the Division that provide vehicle titling and registration
 25 services and commission contractors of the Division under G.S. 20-63 to serve, upon agreement
 26 with the Wildlife Resources Commission, as vessel agents under G.S. 75A-5.2."
 27

28 **PART XXX. SALARIES AND BENEFITS**

29
 30 **GOVERNOR AND COUNCIL OF STATE**

31 **SECTION 30.1.(a)** The salary of the Governor as provided by G.S. 147-11(a) shall
 32 remain unchanged for the 2015-2017 fiscal biennium.

33 **SECTION 30.1.(b)** The annual salaries for members of the Council of State,
 34 payable monthly, shall remain unchanged for the 2015-2017 fiscal biennium, as follows:

| <u>Council of State</u> | <u>Annual Salary</u> |
|--------------------------------------|----------------------|
| Lieutenant Governor | \$125,676 |
| Attorney General | 125,676 |
| Secretary of State | 125,676 |
| State Treasurer | 125,676 |
| State Auditor | 125,676 |
| Superintendent of Public Instruction | 125,676 |
| Agriculture Commissioner | 125,676 |
| Insurance Commissioner | 125,676 |
| Labor Commissioner | 125,676 |

45 **SECTION 30.1.(c)** The Office of State Human Resources shall study the
 46 compensation of the Council of State, as follows:

- 47 (1) Examine the salary, retirement and deferred compensation plans, health and
 48 other insurance coverages, per diem rates, travel reimbursement rates, use of
 49 State vehicles, and any other expense reimbursements or benefits other than
 50 salary.

- 1 (2) Review any comparative information from other states and current salary
2 levels for similar statewide elected constitutional officers.
- 3 (3) Review market data for any comparable private sector executive positions.
- 4 (4) Consider whether Council of State salaries should be restructured and set in
5 a different manner.
- 6 (5) Consider any other matters pertaining to the compensation of the Council of
7 State.

8 **SECTION 30.1.(d)** By May 1, 2016, the Office of State Human Resources shall
9 report to the chairs of the Senate Appropriations/Base Budget Committee and the House of
10 Representatives Appropriations Committee on the review of Council of State compensation
11 required by subsection (c) of this section.

13 CERTAIN EXECUTIVE BRANCH OFFICIALS

14 **SECTION 30.2.** The annual salaries, payable monthly, for the following executive
15 branch officials shall remain unchanged for the 2015-2017 fiscal biennium, as follows:

| 16 <u>Executive Branch Officials</u> | 17 <u>Annual Salary</u> |
|--|-------------------------|
| 18 Chairman, Alcoholic Beverage Control Commission | \$111,868 |
| 19 State Controller | 156,159 |
| 20 Commissioner of Banks | 125,676 |
| 21 Chair, Board of Review, Division of Employment Security | 123,255 |
| 22 Members, Board of Review, Division of Employment Security | 121,737 |
| 23 Chairman, Parole Commission | 102,235 |
| 24 Members of the Parole Commission | 94,464 |
| 25 Chairman, Utilities Commission | 139,849 |
| 26 Members of the Utilities Commission | 125,676 |
| 27 Executive Director, North Carolina 28 Agricultural Finance Authority | 108,915 |

29 JUDICIAL BRANCH SALARIES

30 **SECTION 30.3.(a)** The annual salaries, payable monthly, for specified judicial
31 branch officials shall remain unchanged for the 2015-2017 fiscal biennium, as follows:

| 32 <u>Judicial Branch Officials</u> | 33 <u>Annual Salary</u> |
|---|-------------------------|
| 34 Chief Justice, Supreme Court | \$143,623 |
| 35 Associate Justice, Supreme Court | 139,896 |
| 36 Chief Judge, Court of Appeals | 137,682 |
| 37 Judge, Court of Appeals | 134,109 |
| 38 Judge, Senior Regular Resident Superior Court | 130,492 |
| 39 Judge, Superior Court | 126,875 |
| 40 Chief Judge, District Court | 115,301 |
| 41 Judge, District Court | 111,684 |
| 42 District Attorney | 121,737 |
| 43 Administrative Officer of the Courts | 129,259 |
| 44 Assistant Administrative Officer of the Courts | 118,152 |
| 45 Public Defender | 121,737 |
| 46 Director of Indigent Defense Services | 125,498 |

47 **SECTION 30.3.(b)** The annual salaries of permanent full-time employees of the
48 Judicial Department whose salaries are not itemized in this act shall not be legislatively
49 increased for the 2015-2017 fiscal biennium, but may be increased as otherwise allowed by
50 law.

51 **SECTION 30.3.(c)** Salary reserves generated by the clerk of superior court offices
during the 2015-2016 fiscal year shall be used exclusively by the clerks of superior court. The

1 clerks of superior court may use these funds to award salary increases in addition to those
 2 specifically provided for deputy and assistant clerks under the respective salary plans. Any
 3 additional increases may be awarded at the discretion of each elected clerk of superior court.
 4 The Administrative Office of the Courts shall (i) allocate funds for additional discretionary
 5 salary adjustments on a per capita basis and (ii) adopt a plan for distribution of the funds in
 6 consultation with the Conference of Clerks of Superior Court.

7 8 **LEGISLATIVE BRANCH SALARIES**

9 **SECTION 30.4.(a)** For the 2015-2017 fiscal biennium, the salaries of members
 10 and officers of the General Assembly shall remain unchanged at the amounts set under
 11 G.S. 120-3, as provided in 1994 by the 1993 General Assembly.

12 **SECTION 30.4.(b)** The annual salaries of the Legislative Services Officer and of
 13 nonelected employees of the General Assembly in effect on June 30, 2015, shall not be
 14 legislatively increased for the 2015-2017 fiscal biennium, but may be increased as otherwise
 15 allowed by law.

16 17 **COMMUNITY COLLEGES PERSONNEL**

18 **SECTION 30.5.(a)** The minimum salaries for nine-month, full-time curriculum
 19 community college faculty for the 2015-2017 fiscal biennium shall remain unchanged as
 20 follows:

| <u>Education Level</u> | <u>Minimum Salary</u> |
|---|-----------------------|
| Vocational Diploma/Certificate or Less | \$35,314 |
| Associate Degree or Equivalent | 35,819 |
| Bachelor's Degree | 38,009 |
| Master's Degree or Education Specialist | 39,952 |
| Doctoral Degree | 42,753 |

21
22
23
24
25
26
27 No full-time faculty member shall earn less than the minimum salary for his or her
 28 education level.

29 The pro rata hourly rate of the minimum salary for each education level shall be
 30 used to determine the minimum salary for part-time faculty members.

31 **SECTION 30.5.(b)** For the 2015-2017 fiscal biennium, the community college
 32 boards of trustees may provide instructional personnel a salary increase pursuant to the policies
 33 adopted by the State Board of Community Colleges. Funds for compensation increases may be
 34 used for any one or more of the following purposes: (i) merit pay, (ii) across-the-board
 35 increases, (iii) recruitment bonuses, (iv) retention increases, and (v) any other compensation
 36 increase pursuant to policies adopted by the State Board of Community Colleges. The State
 37 Board of Community Colleges shall make a report on the use of these funds to the 2016
 38 Regular Session of the 2015 General Assembly no later than March 1, 2016.

39 40 **UNIVERSITY OF NORTH CAROLINA SYSTEM**

41 **SECTION 30.6.** Effective for the 2015-2017 fiscal biennium, the annual
 42 compensation of all full-time University of North Carolina SHRA and EHRA employees shall
 43 not be legislatively increased for the 2015-2017 fiscal biennium, but may be increased as
 44 otherwise allowed by law.

45 46 **STATE AGENCY TEACHERS**

47 **SECTION 30.7.** Employees of schools operated by the Department of Health and
 48 Human Services, the Department of Public Safety, and the State Board of Education who are
 49 paid on the Teacher Salary Schedule shall receive any experience step increases authorized in
 50 Section 9.1 of this act.

ALL STATE-SUPPORTED PERSONNEL

SECTION 30.8.(a) For the 2015-2017 fiscal biennium, except as provided by Part 9 and Section 30.5 of this act, the annual compensation of all employees subject to or exempt from the North Carolina Human Resources Act shall not be legislatively increased, but may be increased as otherwise provided by law.

SECTION 30.8.(b) Salaries and Related Benefits for Positions That Are Funded. –

(1) Partially from the General Fund or Highway Fund and partially from sources other than the General Fund or Highway Fund shall be increased from the General Fund or Highway Fund appropriation only to the extent of the proportionate part of the salaries paid from the General Fund or Highway Fund.

(2) Fully from sources other than the General Fund or Highway Fund shall be increased as provided by this act. The Director of the Budget may increase expenditures of receipts from these sources by the amount necessary to provide the legislative increase to receipt-supported personnel in the certified budget.

SECTION 30.8.(c) The salary increases provided in this act become effective July 1, 2015, and do not apply to persons separated from State service due to resignation, dismissal, reduction in force, death, or retirement, or whose last workday is prior to July 1, 2015.

SECTION 30.8.(d) Payroll checks issued to employees after July 1, 2015, that represent payment of services provided prior to July 1, 2015, shall not be eligible for salary increases provided for in this act. This subsection applies to all employees paid from State funds, whether or not subject to or exempt from the North Carolina Human Resources Act, including employees of public schools, community colleges, and The University of North Carolina.

SECTION 30.8.(e) Nothing in this act authorizes the transfer of funds between the General Fund and the Highway Fund for salary increases.

MOST STATE EMPLOYEES

SECTION 30.9. For the 2015-2017 fiscal biennium, the salaries in effect June 30, 2015, for the following employees shall not be legislatively increased, but may be increased as otherwise allowed by law:

- (1) Permanent full-time State officials and persons whose salaries are set in accordance with the State Human Resources Act.
- (2) Permanent full-time State officials and persons in positions exempt from the State Human Resources Act.
- (3) Permanent part-time State employees.
- (4) Temporary and permanent hourly State employees.

USE OF FUNDS APPROPRIATED FOR COMPENSATION INCREASES

SECTION 30.10.(a) The appropriations set forth in Section 2.1 of this act include appropriations for compensation increases in amounts set forth in the committee report described in Section 33.2 of this act. The Office of State Budget and Management shall ensure that those funds are used only for salary increases as provided by this act or otherwise allowed by law.

SECTION 30.10.(b) If the Director of the Budget determines that funds appropriated to a State agency for salary increases exceed the amount required by that agency for that purpose, the Director may reallocate those funds to other State agencies that received insufficient funds for salary increases.

SECTION 30.10.(c) No later than January 1, 2016, the Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations on

1 the expenditure of funds for salary increases. This report shall include at least the following
2 information for each State agency for the 2015-2016 fiscal year:

- 3 (1) The total amount of funds that the agency received for salary increases.
- 4 (2) The total amount of funds transferred from the agency to other State
5 agencies pursuant to subsection (b) of this section. This section of the report
6 shall identify the amounts transferred to each recipient State agency.
- 7 (3) The total amount of funds used by the agency for salary increases.
- 8 (4) The total amount of funds received by the agency for salary increases that
9 are anticipated to revert at the end of the fiscal year.

10 11 **MONITOR SALARY INCREASES**

12 **SECTION 30.11.(a)** The Office of State Budget and Management and the Office
13 of State Human Resources shall submit a semiannual report to the Joint Legislative
14 Commission on Governmental Operations on nonlegislative salary increases in (i) State
15 agencies, departments, and institutions, including authorities, boards, and commissions; (ii) the
16 judicial branch; and (iii) The University of North Carolina and its constituent institutions. The
17 reports required by this section shall include the following information:

- 18 (1) For agencies reporting through the BEACON HR/Payroll system, (i) a
19 breakdown by action type (including, but not limited to, promotion,
20 reallocation, career progression, salary adjustment, and any similar actions
21 increasing employee pay) of the number and annual amount of those
22 increases and (ii) a breakdown by action reason (including in-range higher
23 level, acting pay, trainee adjustment, and other similar action reasons) of the
24 number and annual amount of those action types coded as salary adjustment.
- 25 (2) For The University of North Carolina and its constituent institutions, a
26 breakdown of the number and annual amount of those increases categorized
27 by the University as promotions, changes in job duties or responsibilities,
28 Distinguished Professorships, retention pay, career progression, and any
29 other similar actions increasing employee pay.
- 30 (3) A summary of actions taken by the Office of State Budget and Management
31 and the Office of State Personnel with respect to unauthorized salary
32 increases.

33 **SECTION 30.11.(b)** The Legislative Services Officer shall report semiannually to
34 the President Pro Tempore of the Senate and the Speaker of the House of Representatives on
35 nonlegislative salary increases.

36 37 **COMPENSATION LIMITATIONS/LOTTERY COMMISSION**

38 **SECTION 30.12.** For the 2015-2017 fiscal biennium, notwithstanding the
39 provisions of G.S. 18C-114(a)(11) and G.S. 18C-120(b)(3), the Lottery Commission shall not
40 expend funds for compensation bonuses or for merit-based or performance-based increases.

41 42 **SALARY ADJUSTMENT FUND**

43 **SECTION 30.12A.(a)** Funds appropriated or otherwise transferred to the General
44 Fund Salary Adjustment by this act or any other provision of law shall be used to fund agency
45 requests for salary range revisions, special minimum rates, grade to band transfers, and
46 geographic site differential adjustments to provide competitive salary rates for affected job
47 classifications or groups in response to changes in labor market rates as documented through
48 data collection and analysis according to accepted human resource professional practices and
49 standards. Funds shall only be used for salary adjustments that are in compliance with State
50 Human Resources Commission policies. Funding shall not be used for other purposes,

1 including in-range adjustments, career progression adjustments, or other adjustments as these
2 terms may be defined by State human resources policy.

3 **SECTION 30.12A.(b)** The Director of the Budget shall consult with the Joint
4 Legislative Commission on Governmental Operations prior to transferring any salary
5 adjustment funds for any State agency.

6 **SECTION 30.12A.(c)** The Director of the Budget may transfer to General Fund
7 budget codes from the General Fund Salary Adjustment Fund amounts required to support
8 salary adjustments authorized by this section.

9 **SECTION 30.12A.(d)** The Judicial Department is eligible for the funding
10 authorized in subsection (a) of this section.

11 **SECTION 30.12A.(e)** Employees of The University of North Carolina system, the
12 community colleges, and local school boards are ineligible for the funding authorized in this
13 section.

14 **SECTION 30.12A.(f)** Funds may not be used to increase the compensation of job
15 classes that receive other compensation increases provided by law.

16 17 **SALARY DETERMINATIONS FOR CERTAIN LICENSED HEALTH** 18 **PROFESSIONALS**

19 **SECTION 30.14.** State agencies, departments, and institutions shall have salary
20 administration flexibility for licensed physicians, dentists, nurses, physicians assistants,
21 pharmacists, and other allied health professionals and may exercise the flexibility within
22 existing resources. No salary determination made under this section may exceed the maximum
23 of the applicable salary range established by the Office of State Human Resources under
24 Chapter 126 of the General Statutes. Beginning September 1, 2015, and then annually
25 thereafter, the Office of State Human Resources shall report to the Joint Legislative
26 Commission on Governmental Operations and to the Fiscal Research Division on the salary
27 actions taken under this section.

28 29 **STATE WORKERS' COMPENSATION REFORM**

30 **SECTION 30.18.(a)** The Director of the Budget shall establish a statewide reserve
31 in the amount of five million dollars (\$5,000,000) for closure of workers' compensation claims.
32 The Office of State Budget and Management shall distribute funds from the reserve to the
33 Office of State Human Resources to pay the settlement cost of workers' compensation claims in
34 agencies.

35 **SECTION 30.18.(b)** Article 63 of Chapter 143 of the General Statutes reads as
36 rewritten:

37 "Article 63.

38 "State Employees Workplace Requirements Program for ~~Safety and Health~~. Safety, Health, and
39 Workers' Compensation.

40 "Part 1. Executive Branch Programs.

41 **"§ 143-580. Definition.**

42 As used in this Article, "State agency" means any department, commission, division, board,
43 or institution of the State within the executive branch of ~~government~~ government, including
44 The University of North Carolina system, and the Office of Administrative Hearings.

45 **"§ 143-581. Program goals.**

46 ~~Each State agency~~ The Office of State Human Resources shall establish a written program
47 for State employee workplace ~~safety and health~~. safety, health, and workers' compensation. The
48 program shall promote safe and healthful working conditions and shall be based on clearly
49 stated goals and objectives for meeting the goals. The program shall provide managers,
50 supervisors, and employees with a clear and firm understanding of the State's concern for
51 protecting employees from job-related injuries and health impairment; preventing accidents and

1 fires; planning for emergencies and emergency medical procedures; identifying and controlling
2 physical, chemical, and biological hazards in the workplace; communicating potential hazards
3 to employees; and assuring adequate housekeeping and sanitation.

4 **"§ 143-582. Program requirements.**

5 The written program required under this Article shall describe at a minimum:

- 6 (1) The methods to be used to identify, analyze, and control new or existing
7 hazards, conditions, and operations.
- 8 (2) How managers, supervisors, and employees are responsible for
9 implementing the program, controlling accident-related expenditures, and
10 how continued participation of management and employees will be
11 established, measured, and maintained.
- 12 (3) How the plan will be communicated to all affected employees so that they
13 are informed of work-related physical, chemical, or biological hazards, and
14 controls necessary to prevent injury or illness.
- 15 (4) How managers, supervisors, and employees will receive training in
16 avoidance of job-related injuries and health impairment.
- 17 (5) How workplace accidents will be reported and investigated and how
18 corrective actions will be implemented.
- 19 (6) How safe work practices and rules will be communicated and enforced.
- 20 (7) The safety and health training program that will be made available to
21 employees.
- 22 (8) How employees can make complaints concerning safety and health problems
23 without fear of retaliation.
- 24 (9) How employees will receive medical attention following a work-related
25 injury or illness.

26 **"§ 143-583. Model program; technical assistance; reports.**

27 (a) ~~The State Human Resources Commission, through the Office of State Human~~
28 ~~Resources, shall:~~ Resources shall:

- 29 (1) Maintain a model program of safety and health requirements to guide State
30 agencies in the development of their individual programs and in complying
31 with the provisions of G.S. 95-148 and this Article.
- 32 (2) Establish guidelines for the creation and operation of State agency safety and
33 health committees.
- 34 (3) Adopt policies that shall govern the administration of the workers'
35 compensation program and monitor compliance with Chapter 97 of the
36 General Statutes.
- 37 (4) Establish guidelines for the delegation of certain administrative functions as
38 necessary for the administration of the workers' compensation program to
39 State agencies, as defined in this section.

40 (b) ~~The Office of State Human Resources shall:~~

- 41 (1) ~~Provide consultative and technical services to assist State agencies in~~
42 ~~establishing and administering their workplace safety and health programs~~
43 ~~and to address specific technical problems.~~
- 44 (2) ~~Monitor compliance with this Article.~~

45 (c) ~~The Office of State Human Resources Commission~~ shall report by September 1, and
46 annually thereafter, to the Joint Legislative Commission on Governmental Operations on the
47 ~~safety and health~~ safety, health, and workers' compensation activities of State agencies,
48 compliance with this Article, and the fines levied against State agencies pursuant to Article 16
49 of Chapter 95 of the General Statutes.

50 **"§ 143-584. State agency safety and health committees.**

1 ~~Each State agency~~ The Office of State Human Resources shall create, pursuant to
2 guidelines adopted under subsection (a) of G.S. 143-583, ~~safety and health~~ committees to
3 perform workplace inspections, review injury and illness records, make advisory
4 recommendations to the agency's managers, and perform other functions determined by the
5 Office of State Human Resources Commission to be necessary for the effective implementation
6 of the State Employees Workplace Requirements Program for Safety and ~~Health~~ the workers'
7 compensation program.

8 **"§§ 143-585 through 143-588. Reserved for future codification purposes.**

9 "Part 2. Legislative and Judicial Branch Programs.

10 **"§ 143-589. Legislative and judicial branch safety and health programs.**

11 The Legislative Services Commission and the Administrative Office of the Courts are
12 authorized to separately establish safety and health programs for their employees."

13 **SECTION 30.18.(c)** G.S. 143-166.14 reads as rewritten:

14 **"§ 143-166.14. Payment of salary notwithstanding incapacity; Workers' Compensation
15 Act applicable after two years; duration of payment.**

16 The salary of any eligible person shall be paid as long as the person's employment in that
17 position continues, notwithstanding the person's total or partial incapacity to perform any duties
18 to which the person may be lawfully assigned, if that incapacity is the result of an injury or
19 injuries ~~proximately caused by the heightened risk and special hazards directly related to the~~
20 ~~violent nature of~~ resulting from or arising out of an episode of violence, resistance, or due to
21 other special hazards that occur while the eligible person's person is performing official duties,
22 except if that incapacity continues for more than two years from its inception, the person shall,
23 during the further continuance of that incapacity, be subject to the provisions of Chapter 97 of
24 the General Statutes pertaining to workers' compensation. The time period for which an eligible
25 person receives benefits pursuant to this section shall be deducted from the eligible person's
26 total eligibility for benefits pursuant to G.S. 97-29 and G.S. 97-30. For purposes of this section,
27 the term "salary" shall be defined as the total base pay of the person reflected on the person's
28 salary statement and shall not include overtime pay, shift differential pay, holiday pay, or other
29 additional earnings to which the person may have been entitled prior to such incapacity. Salary
30 paid to an eligible person pursuant to this Article shall cease upon the resumption of the
31 person's regularly assigned duties, retirement, resignation, or death, whichever first occurs,
32 except that temporary return to duty shall not prohibit payment of salary for a subsequent
33 period of incapacity which can be shown to be directly related to the original injury."

34 **SECTION 30.18.(d)** By February 1, 2016, the Office of State Human Resources
35 shall report to the Joint Legislative Commission on Governmental Operations and Fiscal
36 Research Division on the implementation of this section.

37 **SECTION 30.18.(e)** The Department of Administration shall reclassify three
38 vacant positions within the Department and assign the positions to the Office of State Human
39 Resources to staff the Office's Workers' Compensation program for implementation of the
40 provisions of Article 63 of Chapter 143 of the General Statutes as amended by this act.

41 **SALARY-RELATED CONTRIBUTIONS**

42 **SECTION 30.20.(a)** Effective for the 2015-2017 fiscal biennium, required
43 employer salary-related contributions for employees whose salaries are paid from department,
44 office, institution, or agency receipts shall be paid from the same source as the source of the
45 employee's salary. If an employee's salary is paid in part from the General Fund or Highway
46 Fund and in part from department, office, institution, or agency receipts, required employer
47 salary-related contributions may be paid from the General Fund or Highway Fund only to the
48 extent of the proportionate part paid from the General Fund or Highway Fund in support of the
49 salary of the employee, and the remainder of the employer's requirements shall be paid from the
50 source that supplies the remainder of the employee's salary. The requirements of this section as
51

1 to source of payment are also applicable to payments on behalf of the employee for hospital
2 medical benefits, longevity pay, unemployment compensation, accumulated leave, workers'
3 compensation, severance pay, separation allowances, and applicable disability income benefits.

4 **SECTION 30.20.(b)** Effective July 1, 2015, the State's employer contribution rates
5 budgeted for retirement and related benefits as a percentage of covered salaries for the
6 2015-2017 fiscal biennium are (i) fifteen and twenty-one hundredths percent (15.21%) –
7 Teachers and State Employees; (ii) twenty and twenty-one hundredths percent (20.21%) – State
8 Law Enforcement Officers; (iii) twelve and seventy-four hundredths percent (12.74%) –
9 University Employees' Optional Retirement Program; (iv) twelve and seventy-four hundredths
10 percent (12.74%) – Community College Optional Retirement Program; (v) thirty-two and
11 seventy hundredths percent (32.70%) – Consolidated Judicial Retirement System; and (vi)
12 seven and twenty-nine hundredths percent (7.29%) – Legislative Retirement System. Each of
13 the foregoing contribution rates includes five and forty-nine hundredths percent (5.49%) for
14 hospital and medical benefits. The rate for the Teachers and State Employees, State Law
15 Enforcement Officers, University Employees' Optional Retirement Program, and the
16 Community College Optional Retirement Program includes forty-one hundredths percent
17 (0.41%) for the Disability Income Plan. The rates for Teachers and State Employees and State
18 Law Enforcement Officers include sixteen hundredths percent (0.16%) for the Death Benefits
19 Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental
20 Retirement Income. The rate for Teachers and State Employees and State Law Enforcement
21 Officers includes one hundredth percent (0.01%) for the Qualified Excess Benefit
22 Arrangement.

23 **SECTION 30.20.(c)** Effective July 1, 2015, the maximum annual employer
24 contributions, payable monthly, by the State for each covered employee or retiree for the
25 2015-2016 fiscal year to the State Health Plan for Teachers and State Employees are (i)
26 Medicare-eligible employees and retirees – four thousand one hundred seventy-nine dollars
27 (\$4,179) and (ii) non-Medicare-eligible employees and retirees – five thousand three hundred
28 seventy-eight dollars (\$5,378).

29
30 **ALLOW RETIREES WHO RETURN TO WORK FOR THE STATE IN**
31 **NONPERMANENT POSITIONS TO RETAIN THEIR COVERAGE OPTIONS**
32 **UNDER THE STATE HEALTH PLAN FOR TEACHERS AND STATE**
33 **EMPLOYEES RATHER THAN LIMITING SUCH RETIREES' COVERAGE**
34 **OPTIONS TO THE "BRONZE LEVEL" HIGH-DEDUCTIBLE HEALTH PLAN**
35 **NECESSITATED BY THE AFFORDABLE CARE ACT**

36 **SECTION 30.25.(a)** G.S. 135-48.40 reads as rewritten:

37 **"§ 135-48.40. Categories of eligibility.**

38 ...

39 (b) Partially Contributory Coverage. – The following persons are eligible for coverage
40 under the Plan, on a partially contributory basis, subject to the provisions of G.S. 135-48.43:

41 (1) All permanent full-time employees of an employing unit who meet either of
42 the following conditions:

43 a. Paid from general or special State funds.

44 b. Paid from non-State funds and in a group for which his or her
45 employing unit has agreed to provide coverage.

46 Employees of State agencies, departments, institutions, boards, and
47 commissions not otherwise covered by the Plan who are employed in
48 permanent job positions on a recurring basis and who work 30 or more hours
49 per week for nine or more months per calendar year are covered by the
50 provisions of this subdivision.

1 (1a) All retirees who (i) are employed by an employing unit, (ii) do not qualify
2 for coverage under subdivision (1) of this subsection, and (iii) are
3 determined to be "full-time" by their employing unit in accordance with
4 section 4980H of the Internal Revenue Code and the applicable regulations,
5 as amended. The employing unit shall pay the employer premiums for
6 retirees who enroll under this subdivision.

7 ...

8 (e) Other Contributory Coverage. – Any employee of an employing unit is eligible for
9 coverage under this section on a contributory basis, subject to the provisions of G.S. 135-48.43
10 and of this section, if (i) the employee's employing unit determines that the employee is a
11 full-time employee and (ii) the employee does not qualify for coverage under subdivision (1),
12 (1a), (5), (6), (7), (8), (9), or (10) of G.S. 135-48.40(b). For the purposes of this subsection, the
13 full-time status of an employee shall be determined by the employing unit, in its sole discretion,
14 in accordance with Section 4980H of the Internal Revenue Code and the applicable regulations,
15 as amended. The coverage offered and the contribution required for coverage under this section
16 shall be determined by the Treasurer and approved by the Board of Trustees. Such coverage
17 shall do all of the following:

- 18 (1) Be designed to meet the requirements of minimum essential coverage under
19 the Patient Protection and Affordable Care Act, P.L. 111-148, and the
20 applicable regulations, as amended (Affordable Care Act).
- 21 (2) Provide no greater coverage than a bronze-level plan, as defined under the
22 Affordable Care Act.
- 23 (3) Minimize the required employer contribution in an administratively feasible
24 manner."

25 **SECTION 30.25.(b)** G.S. 135-48.41(j) reads as rewritten:

26 "(j) If a retiree has been hired by an employing unit and is eligible for coverage under
27 subdivision (1), (1a), (5), (6), (7), (8), (9), or (10) of G.S. 135-48.40(b) or under
28 G.S. 135-48.40(e), then the hired retiree shall not, during the time of employment, be eligible
29 for retiree coverage under G.S. 135-48.40(a)(1), G.S. 135-48.40(b)(3), G.S. 135-48.40(c)(2), or
30 G.S. 135-48.40(d)(11)."

31 **INTEREST RATE USED TO CALCULATE EMPLOYER CONTRIBUTION RATES**

32 **SECTION 30.29.(a)** G.S. 135-6(o) reads as rewritten:

33 "(o) On the basis of such tables and interest assumption rate as the Board of Trustees
34 shall adopt, the actuary shall make an annual valuation of the assets and liabilities of the funds
35 of the System created by this Chapter. Notwithstanding the Board's general authority to set
36 interest assumption rates for the annual valuation, for purposes of the calculation of employer
37 contribution rates, the Board shall use an interest rate of seven and twenty-hundredths percent
38 (7.20%) in the valuation prepared as of December 31, 2013, and shall reduce that interest rate
39 in each subsequent annual valuation by five-hundredths percent (0.05%) relative to the
40 previous year's valuation."

41 **SECTION 30.29.(b)** G.S. 135-69(e) reads as rewritten:

42 "(e) The normal contribution rate and the accrued liability contribution rate shall be
43 determined after each annual valuation of the Retirement System and shall remain in effect
44 until a new valuation is made. In setting the contribution rates under this section, the Board
45 shall use the same interest rate as that required under G.S. 135-6(o)."

46 **CLARIFY AND AMEND THE LAW PROVIDING FOR PURCHASE OF SERVICE BY** 47 **MEMBERS OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT** 48 **SYSTEM FOR EDUCATIONAL LEAVE**

49 **SECTION 30.30.** G.S. 135-8(b)(5) reads as rewritten:
50
51

1 "(5) The Board of Trustees may approve the purchase of creditable service by
2 any member for leaves of absence or for interrupted service to an employer
3 for the sole ~~purpose~~purposes of acquiring knowledge, talents, or abilities and
4 to ~~increase~~increasing the efficiency of service to the ~~employer~~employer,
5 subject to the provisions of this subdivision. A leave of absence or
6 interrupted service may be approved for purchase under this subdivision for
7 a period of employment as a teacher in a charter school. Any other leave of
8 absence or interrupted service shall qualify for purchase under this
9 subdivision only if (i) during the time of the leave or interrupted service the
10 member is enrolled and participates in a full-time degree program at an
11 accredited institution of higher education, (ii) the member is not paid for the
12 activity in which he or she is acquiring knowledge, talents, or abilities, and
13 (iii) the service is not purchased for any month in which the member
14 performed any services for any of the organizations listed in G.S. 135-27(a)
15 or G.S. 135-27(f), or a successor to any of those organizations. This approval
16 Approval by the Board under this subdivision shall be made prior to the
17 purchase of the creditable service, is limited to a career total of six years for
18 each member, and may be obtained in the following manner:

- 19 a. Approved leave of absence. – Where the employer grants an
20 approved leave of absence, a member may make monthly
21 contributions to the annuity savings fund on the basis of
22 compensation the member was earning immediately prior to such
23 leave of absence. The employer shall make monthly contributions
24 equal to the normal and accrued liability contribution on such
25 compensation or, in lieu thereof, the member may pay into the
26 annuity savings fund monthly an amount equal to the employer's
27 normal and accrued liability contribution when the policy of the
28 employer is not to make such payment.
- 29 b. No educational leave policy. – Where the employer has a policy of
30 not granting educational leaves of absence or the member has
31 unsuccessfully petitioned for leave of absence and the member has
32 interrupted service for educational purposes, the member may make
33 monthly contributions into the annuity savings fund in an amount
34 equal to the employee contribution plus the employer normal and
35 accrued liability contribution on the basis of the compensation the
36 member was earning immediately prior to the interrupted service.
- 37 c. Educational program prior to July 1, 1981. – Creditable service for
38 leaves of absence or interrupted service for educational purposes
39 prior to July 1, 1981, may be purchased by a member, before or after
40 retirement, who returned as a contributing employee or teacher
41 within 12 months after completing the educational program and
42 completed 10 years of subsequent membership service, by making a
43 lump sum payment into the annuity savings fund equal to the full
44 cost of the service credits calculated on the basis of the assumptions
45 used for purposes of the actuarial valuation of the system's liabilities
46 and shall take into account the retirement allowance arising on
47 account of the additional service credit commencing at the earliest
48 age at which the member could retire on an unreduced retirement
49 allowance as determined by the Board of Trustees upon the advice of
50 the consulting actuary, plus a fee to be determined by the Board of
51 Trustees.

1 d. Employment in a charter school. – Notwithstanding subparagraph a.
2 of this subdivision, where the employer grants an approved leave of
3 absence for the member to be employed in a charter school or where
4 the member's service is interrupted by employment in a charter
5 school, authorized under Part 6A of Article 16 of Chapter 115C of
6 the General Statutes, the member may make monthly contributions
7 into the annuity savings fund in an amount equal to the employee
8 contribution plus the employer normal and accrued liability
9 contribution on the basis of the compensation the member was
10 earning immediately prior to the interrupted service.

11 Payments required to be made by the member, the employer, or both
12 under subparagraphs a or b are due by the 15th of the month following the
13 month for which the service credit is allowed and payments made after the
14 due date shall be assessed a penalty, in lieu of interest, of one percent (1%)
15 per month or fraction thereof the payment is made beyond the due date;
16 provided, that these payments shall be made prior to retirement and provided
17 further, that if the member did not become a contributing member within 12
18 months after completing the educational program and failed to complete
19 three years of subsequent membership service, except in the event of death
20 or disability, any payment made by the member including penalty shall be
21 refunded with regular interest thereon and the service credits cancelled prior
22 to or at retirement."
23

24 STATE HEALTH PLAN CASH RESERVE

25 **SECTION 30.31.(a)** During the 2015-2017 fiscal biennium, the State Health Plan
26 for Teachers and State Employees shall maintain a cash reserve of at least twenty percent
27 (20%) of its annual costs. For purposes of this section, the term "cash reserve" means the total
28 balance in the Public Employee Health Benefit Fund and the Health Benefit Reserve Fund
29 established in G.S. 135-48.5 plus the Plan's administrative account, and the term "annual costs"
30 means the total of all medical claims, pharmacy claims, administrative costs, fees, and premium
31 payments for coverage outside of the Plan.

32 **SECTION 30.31.(b)** On and after January 1, 2016, if the State Health Plan for
33 Teachers and State Employees projects a cash reserve of less than the minimum cash reserve
34 required by this section at any time during the remainder of the 2015-2017 fiscal biennium, or
35 the Fiscal Research Division of the General Assembly notifies the Plan that it projects such a
36 deficiency, the Department of State Treasurer shall report to the Joint Legislative Commission
37 on Governmental Operations within 60 days of that projection or notification on actions the
38 Department plans to take in order to maintain that required minimum cash reserve.
39

40 STATE HEALTH PLAN ELIGIBILITY/PREMIUMS FOR ALTERNATIVE 41 COVERAGE OPTIONS

42 **SECTION 30.32.(a)** G.S. 135-48.1(18) reads as rewritten:

43 "(18) Retired employee (retiree). – Retired teachers, State employees, and
44 members of the General Assembly who (i) are receiving monthly retirement
45 benefits from ~~any retirement system supported in whole or in part by~~
46 ~~contributions of the State of North Carolina, the Teachers' and State~~
47 Employees' Retirement System, the Consolidated Judicial Retirement
48 System, the Legislative Retirement System, or the Optional Retirement
49 Program and (ii) earned contributory retirement service in one of these
50 retirement systems prior to January 1, 2016, and did not withdraw that
51 service, so long as the retiree is enrolled."

1 **SECTION 30.32.(b)** G.S. 135-48.40 reads as rewritten:

2 "**§ 135-48.40. Categories of eligibility.**

3 (a) Noncontributory Coverage. – The following persons are eligible for coverage under
4 the Plan, on a noncontributory basis, subject to the provisions of G.S. 135-48.43:

5 (1) ~~Retired teachers, State employees, members of the General Assembly,~~
6 Retired employees as defined in G.S. 135-48.1(18) and retired State law
7 enforcement officers who retired under the Law Enforcement Officers'
8 Retirement System prior to January 1, 1985. Except as otherwise provided in
9 this subdivision, on and after January 1, 1988, a retiring employee or retiree
10 must have completed at least five years of contributory retirement service
11 with an employing unit prior to retirement from any State-supported
12 retirement system in order to be eligible for group benefits under this Part as
13 a retired employee or retiree. For employees first hired on and after October
14 1, 2006, and members of the General Assembly first taking office on and
15 after February 1, 2007, future coverage as retired employees and retired
16 members of the General Assembly is subject to a requirement that the future
17 retiree have 20 or more years of retirement service credit in order to be
18 covered by the provisions of this subdivision.

19 ...

20 (b) Partially Contributory Coverage. – The following persons are eligible for coverage
21 under the Plan, on a partially contributory basis, subject to the provisions of G.S. 135-48.43:

22 ...

23 (3) ~~Retired teachers, State employees, members of the General Assembly,~~
24 Retired employees as defined in G.S. 135-48.1(18) and retired State law
25 enforcement officers who retired under the Law Enforcement Officers'
26 Retirement System prior to January 1, 1985. Except as otherwise provided in
27 this subdivision, on and after January 1, 1988, a retiring employee or retiree
28 must have completed at least five years of contributory retirement service
29 with an employing unit prior to retirement from any State-supported
30 retirement system in order to be eligible for group benefits under this Part as
31 a retired employee or retiree. For employees first hired on and after October
32 1, 2006, and members of the General Assembly first taking office on and
33 after February 1, 2007, future coverage as retired employees and retired
34 members of the General Assembly is subject to a requirement that the future
35 retiree have 20 or more years of retirement service credit in order to be
36 covered by the provisions of this subdivision.

37 ...

38 (c) One-Half Contributory Coverage. – The following persons are eligible for coverage
39 under the Plan, on a one-half contributory basis, subject to the provisions of G.S. 135-48.43:

40 ...

41 (2) ~~Employees and members of the General Assembly~~Retired employees as
42 defined in G.S. 135-48.1(18) with 10 but less than 20 years of retirement
43 service credit provided the employees were first hired on or after October 1,
44 2006, and the members first took office on or after February 1, 2007. For
45 such future retirees, the State shall pay fifty percent (50%) of the Plan's total
46 employer premiums. Individual retirees shall pay the balance of the total
47 premiums not paid by the State.

48 (d) Fully Contributory Coverage. – The following persons shall be eligible for coverage
49 under the Plan, on a fully contributory basis, subject to the provisions of G.S. 135-48.43:

50 ...

(11) ~~Retired teachers, State employees, and members of the General Assembly~~
Retired employees as defined in G.S. 135-48.1(18) with less than 10 years of
retirement service credit, provided the teachers and State employees were
first hired on or after October 1, 2006, and the members first took office on
or after February 1, 2007.

...."

SECTION 30.32.(c) G.S. 135-48.30(a) is amended by adding a new subdivision to
read as follows:

"(a) The State Treasurer shall have the following powers and duties:

...

(17) Optionally offer Medicare-related options under G.S. 135-48.38.

(18) Optionally offer to pay premiums to purchase alternative coverage in lieu of
coverage under the Plan under G.S. 135-48.39."

SECTION 30.32.(d) Part 3 of Article 3B of Chapter 135 of the General Statutes is
amended by adding a new section to read as follows:

**"§ 135-48.39. Premiums to purchase alternative coverage for retirees in lieu of coverage
under the Plan.**

(a) The State Treasurer may offer to pay or reimburse premiums for alternative health
benefit plan coverage in lieu of coverage under the State Health Plan. If the State Treasurer
elects to offer premium payments in lieu of coverage, then the State Treasurer shall adopt rules
for and limitations on doing so.

(b) Premium payments in lieu of coverage shall be limited to persons eligible for
coverage under the following, and the State Treasurer may vary the amounts of premium
payments depending on the category of eligibility:

(1) G.S. 135-48.40(a)(1).

(2) G.S. 135-48.40(a)(2).

(3) G.S. 135-48.40(b)(3).

(4) G.S. 135-48.40(b)(4).

(5) G.S. 135-48.40(c)(2).

(c) Notwithstanding the eligibility for coverage provided in Part 4 of this Article,
coverage outside of the Plan shall be in lieu of coverage under the Plan during the period for
which the Plan member chooses premium payments in lieu of coverage."

PART XXXI. CAPITAL APPROPRIATIONS

GENERAL FUND CAPITAL APPROPRIATIONS/INTRODUCTION

SECTION 31.1. The appropriations made by the 2015 General Assembly for
capital improvements are for constructing, repairing, or renovating State buildings, utilities, and
other capital facilities, for acquiring sites for them where necessary, and for acquiring buildings
and land for State government purposes.

CAPITAL APPROPRIATIONS/GENERAL FUND

SECTION 31.2. There is appropriated from the General Fund for the 2015-2017
fiscal biennium the following amounts for capital improvements:

| Capital Improvements – General Fund | 2015-2016 | 2016-2017 |
|---|------------------|------------------|
| Department of Agriculture and Consumer Services | | |
| Dorton Arena Roof Replacement | 2,305,000 | – |
| Department of Cultural Resources | | |

| | | | |
|----|---|----------------------|------------------|
| 1 | USS North Carolina Hull Repair and Cofferdam | 3,500,000 | – |
| 2 | | | |
| 3 | Department of Environment and Natural Resources | | |
| 4 | Water Resources Development | 5,083,000 | – |
| 5 | | | |
| 6 | Department of Public Safety | | |
| 7 | Armory and Facility Development Projects | 618,000 | 5,087,500 |
| 8 | | | |
| 9 | General Assembly | | |
| 10 | Legislative Building Roof Replacement and | | |
| 11 | Asbestos Abatement | 9,500,000 | – |
| 12 | | | |
| 13 | Repairs and Renovations Reserve | 144,889,100 | |
| 14 | | | |
| 15 | Responsible Capital Planning Commission | | |
| 16 | Capital Improvement Planning Fund | 5,000,000 | – |
| 17 | | | |
| 18 | University of North Carolina | | |
| 19 | North Carolina School of Science and | | |
| 20 | Mathematics – Upgrades and Building Repair | 4,000,000 | – |
| 21 | | | |
| 22 | TOTAL CAPITAL IMPROVEMENTS – | | |
| 23 | GENERAL FUND | \$174,895,100 | 5,087,500 |

WATER RESOURCES DEVELOPMENT PROJECTS

SECTION 31.3.(a) The Department of Environment and Natural Resources shall allocate funds for water resources development projects in accordance with the schedule that follows. The amounts set forth in the schedule include funds appropriated in this act for water resources development projects and funds carried forward from previous fiscal years in accordance with subsection (b) of this section. These funds will provide a State match for an estimated forty-four million three hundred fifty-three thousand dollars (\$44,353,000) in federal funds.

| | Name of Project | 2015-2016 |
|----|---|------------------|
| 34 | | |
| 35 | | |
| 36 | (1) Jordan Water Supply | \$200,000 |
| 37 | (2) Wilmington Harbor Study | 225,000 |
| 38 | (3) Planning Assistance | 25,000 |
| 39 | (4) Wilmington Harbor Deepening | 600,000 |
| 40 | (5) Wilmington Harbor Maintenance | - |
| 41 | (6) Morehead City Harbor Maintenance | - |
| 42 | (7) Carolina Beach Storm Damage Reduction | 1,400,000 |
| 43 | (8) Carolina Beach Storm Damage Reduction 15-Year Extension Study | 81,000 |
| 44 | (9) Kure Beach Storm Damage Reduction | 1,450,000 |
| 45 | (10) Wrightsville Storm Damage Reduction Reevaluation Report | 81,000 |
| 46 | (11) Ocean Isle Storm Damage Reduction Reevaluation Report | 81,000 |
| 47 | (12) Bogue Banks Storm Damage Reduction Preconstruction, | |
| 48 | Engineering, and Design | 165,000 |
| 49 | (13) Surf City/North Topsail Preconstruction Activities | 135,000 |
| 50 | (14) West Onslow Beach Preconstruction Activities | 135,000 |
| 51 | (15) NRCS EQIP (65/35) | 1,000,000 |

| | | | |
|---|------|--|--------------------|
| 1 | (16) | Planning for S.L. 2010-143 | 75,000 |
| 2 | (17) | State-Local Projects | 1,000,000 |
| 3 | (18) | Lock and Dam #2 – Fish Ramp – Phase 1 | 250,000 |
| 4 | (19) | Linville River Restoration | 250,000 |
| 5 | (20) | Assistance to Counties – EAP Preparation | 250,000 |
| 6 | (21) | North Topsail Shoreline Protection – Phase 2 | 500,000 |
| 7 | | | |
| 8 | | TOTALS | \$7,903,000 |
| 9 | | | |

10 **SECTION 31.3.(b)** It is the intent of the General Assembly that funds carried
 11 forward from previous fiscal years be used to supplement the five million eighty-three thousand
 12 dollars (\$5,083,000) appropriated for water resources development projects in Section 31.2 of
 13 this act. Therefore, the following funds carried forward from previous fiscal years shall be used
 14 for the following projects:

| | Name of Project | Amount Carried Forward |
|----|---|-------------------------------|
| 18 | (1) Wilmington Harbor Study | \$225,000 |
| 19 | (2) Planning Assistance | 25,000 |
| 20 | (3) Wilmington Harbor Deepening | 600,000 |
| 21 | (4) Carolina Beach Storm Damage Reduction | 727,000 |
| 22 | (5) Kure Beach Storm Damage Reduction | 808,000 |
| 23 | (6) Bogue Banks Storm Damage Reduction Preconstruction, | |
| 24 | Engineering, and Design | 165,000 |
| 25 | (7) Surf City/North Topsail Preconstruction Activities | 135,000 |
| 26 | (8) West Onslow Beach Preconstruction Activities | 135,000 |
| 27 | | |
| 28 | TOTALS | \$2,820,000 |
| 29 | | |

30 **SECTION 31.3.(c)** Where the actual costs are different from the estimated costs
 31 under subsection (a) of this section, the Department may adjust the allocations among projects
 32 as needed. If any projects funded under subsection (a) of this section are delayed and the
 33 budgeted State funds cannot be used during the 2015-2016 fiscal year or if the projects funded
 34 under subsection (a) of this section are accomplished at a lower cost, the Department may use
 35 the resulting fund availability to fund any of the following:

- 36 (1) U.S. Army Corps of Engineers project feasibility studies.
- 37 (2) U.S. Army Corps of Engineers projects whose schedules have advanced and
- 38 require State matching funds in the 2015-2016 fiscal year.
- 39 (3) State-local water resources development projects.

40 Funds subject to this subsection that are not expended or encumbered for the purposes set forth
 41 in subdivisions (1) through (3) of this subsection shall revert to the General Fund at the end of
 42 the 2016-2017 fiscal year.

43 **SECTION 31.3.(d)** The Department shall make semiannual reports on the use of
 44 these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal
 45 Research Division, and the Office of State Budget and Management. Each report shall include
 46 all of the following:

- 47 (1) All projects listed in this section.
- 48 (2) The estimated cost of each project.
- 49 (3) The date that work on each project began or is expected to begin.
- 50 (4) The date that work on each project was completed or is expected to be
- 51 completed.

(5) The actual cost of the project.
 The semiannual reports also shall show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

SECTION 31.3.(e) Notwithstanding any provision of law to the contrary, funds appropriated for a water resources development project shall be used to provide no more than fifty percent (50%) of the nonfederal portion of funds for the project. This subsection applies to funds appropriated in this act and to funds appropriated prior to the 2015-2017 fiscal biennium that are unencumbered and proposed for reallocation to provide the nonfederal portion of funds for water resources development projects. The limitation on fund usage contained in this subsection applies only to projects in which a local government or local governments participate.

NON-GENERAL FUND CAPITAL IMPROVEMENT AUTHORIZATIONS

SECTION 31.4.(a) The General Assembly authorizes the following capital projects to be funded with receipts or from other non-General Fund sources available to the appropriate department:

| Name of Project | Amount of Non-General Fund Funding Authorized | |
|---|---|--------------|
| | FY 2015-2016 | FY 2016-2017 |
| Department of Agriculture and Consumer Services | | |
| WNC Farmers Market Improvements/Robert G. Shaw Piedmont Triad Farmers Market Improvements | \$3,000,000 | – |
| WNC Agricultural Center Events/Restroom Building | 500,000 | – |
| NC Forest Service Mountain Island Educational Forest-Visitor and Interpretive Center | 4,000,000 | – |
| Deer Fence on Research Stations | 200,000 | – |
| Aviary Egg Layer Research Building | 1,750,000 | – |
| State Fair Renovations/Infrastructure Improvements | 2,500,000 | – |
| State Fair Horse Complex | 1,000,000 | – |
| Animal Disease Diagnostic Laboratory Equipment | 500,000 | – |
| Department of Environment and Natural Resources | | |
| Fort Fisher Aquarium Seawall | 590,000 | 590,000 |
| Gorilla Expansion | 450,000 | – |
| Department of Public Safety | | |
| National Guard – Wilmington Replacement | 14,200,000 | – |
| Department of Transportation | | |
| Anson County Blacksmith Shop | 195,000 | – |
| Nash County Equipment Shop | 194,200 | 2,590,800 |
| Gaston County Equipment Shop | 2,409,000 | – |
| Statewide Local Truck Storage Shed | – | 194,800 |
| Lee County Resident Engineers Office | – | 1,198,000 |
| Watauga County District Engineers | – | 1,165,000 |
| Surry County District Engineers Office | – | 1,197,000 |
| Guilford County Bridge Maintenance Facility | – | 1,024,000 |

| | | | |
|----|------------------------------------|---------------------|-------------------|
| 1 | Scotland County Maintenance Office | - | 1,109,000 |
| 2 | | | |
| 3 | Wildlife Resources Commission | | |
| 4 | Boating Access New Construction | 3,750,000 | 3,750,000 |
| 5 | Land Acquisition | 900,000 | 900,000 |
| 6 | Jordan Lake Depot | 500,000 | - |
| 7 | Fishing Access Construction | - | 200,000 |
| 8 | | | |
| 9 | TOTAL AMOUNT OF NON-GENERAL | | |
| 10 | FUND CAPITAL PROJECTS | | |
| 11 | AUTHORIZED | \$36,638,200 | 13,918,600 |
| 12 | | | |

13 **SECTION 31.4.(b)** From funds deposited with the State Treasurer in a capital
14 improvement account to the credit of the Department of Agriculture and Consumer Services
15 pursuant to G.S. 146-30, the sum of seventy-five thousand dollars (\$75,000) for the 2015-2016
16 fiscal year and the sum of seventy-five thousand dollars (\$75,000) for the 2016-2017 fiscal year
17 shall be transferred to the Department of Agriculture and Consumer Services to be used,
18 notwithstanding G.S. 146-30, by the Department for its plant conservation program under
19 Article 19B of Chapter 106 of the General Statutes for costs incidental to the acquisition of
20 land, such as land appraisals, land surveys, title searches, and environmental studies, and for
21 the management of the plant conservation program preserves owned by the Department.

22
23 **REPAIRS AND RENOVATIONS RESERVE ALLOCATION**

24 **SECTION 31.5.(a)** Of the funds in the Reserve for Repairs and Renovations for
25 the 2015-2016 and the 2016-2017 fiscal years, the following allocations shall be made to the
26 following agencies for repairs and renovations pursuant to G.S. 143C-4-3:

- 27 (1) Fifty percent (50%) of the funds shall be allocated to the Board of Governors
28 of The University of North Carolina.
- 29 (2) Fifty percent (50%) of the funds shall be allocated to the Office of State
30 Budget and Management.

31 The Office of State Budget and Management shall consult with or report to the Joint
32 Legislative Commission on Governmental Operations, as appropriate, in accordance with
33 G.S. 143C-4-3(d). The Board of Governors shall report to the Joint Legislative Commission on
34 Governmental Operations in accordance with G.S. 143C-4-3(d).

35 **SECTION 31.5.(b)** Notwithstanding G.S. 143C-4-3(d), of the funds allocated to
36 the Board of Governors of The University of North Carolina in subsection (a) of this section, a
37 portion shall be used each fiscal year by the Board of Governors for the installation of fire
38 sprinklers in university residence halls. This portion shall be in addition to funds otherwise
39 appropriated in this act for the same purpose. Such funds shall be allocated among the
40 University's constituent institutions by the President of The University of North Carolina, who
41 shall consider the following factors when allocating those funds:

- 42 (1) The safety and well-being of the residents of campus housing programs.
- 43 (2) The current level of housing rents charged to students and how that
44 compares to an institution's public peers and other UNC institutions.
- 45 (3) The level of previous authorizations to constituent institutions for the
46 construction or renovation of residence halls funded from the General Fund
47 or from bonds or certificates of participation supported by the General Fund
48 since 1996.
- 49 (4) The financial status of each constituent institution's housing system,
50 including debt capacity, debt coverage ratios, credit rankings, required
51 reserves, the planned use of cash balances for other housing system

1 improvements, and the constituent institution's ability to pay for the
2 installation of fire sprinklers in all residence halls.

- 3 (5) The total cost of each proposed project, including the cost of installing fire
4 sprinklers and the cost of other construction, such as asbestos removal and
5 additional water supply needs.

6 The Board of Governors shall submit progress reports to the Joint Legislative
7 Commission on Governmental Operations. Reports shall include the status of completed,
8 current, and planned projects. Reports also shall include information on the financial status of
9 each constituent institution's housing system, the constituent institution's ability to pay for fire
10 protection in residence halls, and the timing of installation of fire sprinklers. Reports shall be
11 submitted on January 1 and July 1 until all residence halls have fire sprinklers.

12 **SECTION 31.5.(c)** Notwithstanding G.S. 143C-4-3(d), of the funds allocated to
13 the Board of Governors of The University of North Carolina in subsection (a) of this section, a
14 portion shall be used each fiscal year by the Board of Governors for campus public safety
15 improvements allowable under G.S. 143C-4-3(b).

16 **SECTION 31.5.(d)** In making campus allocations of funds allocated to the Board
17 of Governors of The University of North Carolina in subsection (a) of this section, the Board of
18 Governors shall negatively weight the availability of non-State resources and carry forward
19 funds available for repair and renovations and shall include information about the manner in
20 which this subsection was complied with in any report submitted pursuant to G.S. 143C-4-3(d).

21 **PROCEDURES FOR DISBURSEMENT OF CAPITAL FUNDS**

22 **SECTION 31.6.** The appropriations made by the 2015 General Assembly for
23 capital improvements shall be disbursed for the purposes provided by this act. Expenditure of
24 funds shall not be made by any State department, institution, or agency until an allotment has
25 been approved by the Governor as Director of the Budget. The allotment shall be approved
26 only after full compliance with the State Budget Act, Chapter 143C of the General Statutes.
27 Prior to the award of construction contracts for projects to be financed in whole or in part with
28 self-liquidating appropriations, the Director of the Budget shall approve the elements of the
29 method of financing of those projects, including the source of funds, interest rate, and
30 liquidation period. Provided, however, that if the Director of the Budget approves the method
31 of financing a project, the Director shall report that action to the Joint Legislative Commission
32 on Governmental Operations at its next meeting.

33 Where direct capital improvement appropriations include the purpose of furnishing
34 fixed and movable equipment for any project, those funds for equipment shall not be subject to
35 transfer into construction accounts except as authorized by the Director of the Budget. The
36 expenditure of funds for fixed and movable equipment and furnishings shall be reviewed and
37 approved by the Director of the Budget prior to commitment of funds.

38 Capital improvement projects authorized by the 2015 General Assembly shall be
39 completed, including fixed and movable equipment and furnishings, within the limits of the
40 amounts of the direct or self-liquidating appropriations provided, except as otherwise provided
41 in this act. Capital improvement projects authorized by the 2015 General Assembly for the
42 design phase only shall be designed within the scope of the project as defined by the approved
43 cost estimate filed with the Director of the Budget, including costs associated with site
44 preparation, demolition, and movable and fixed equipment.

45 **REPORTING ON CAPITAL PROJECTS**

46 **SECTION 31.7.(a)** Definitions. – The following definitions apply in this section:

- 47 (1) Capital project. – Any capital improvement, as that term is defined in
48 G.S. 143C-1-1, that is not complete by the effective date of this section and
49 that is funded in whole or in part with State funds, including receipts,
50
51

1 non-General Fund sources, or statutorily or constitutionally authorized
2 indebtedness of any kind. This term includes only projects with a total cost
3 of one hundred thousand dollars (\$100,000) or more.

4 (2) Construction phase. – The status of a particular capital project as described
5 using the terms customarily employed in the design and construction
6 industries.

7 (3) New capital project. – A capital project that is authorized in this act or
8 subsequent to the effective date of this act.

9 **SECTION 31.7.(b)** Reporting. – The following reports are required:

10 (1) By October 1, 2015, and every six months thereafter, each State agency shall
11 report on the status of agency capital projects to the Joint Legislative
12 Commission on Governmental Operations.

13 (2) By October 1, 2015, and quarterly thereafter, each State agency shall report
14 on the status of agency capital projects to the Fiscal Research Division of the
15 General Assembly and to the Office of State Budget and Management.

16 **SECTION 31.7.(c)** The reports required by subsection (b) of this section shall
17 include at least the following information about every agency capital project:

18 (1) The current construction phase of the project.

19 (2) The anticipated time line from the current construction phase to project
20 completion.

21 (3) Information about expenditures that have been made in connection with the
22 project, regardless of source of the funds expended.

23 (4) Information about the adequacy of funding to complete the project,
24 including estimates of how final expenditures will relate to initial estimates
25 of expenditures, and whether or not scope reductions will be necessary in
26 order to complete the project within its budget.

27 (5) For new capital projects only, an estimate of the operating costs for the
28 project for the first five fiscal years of its operation.

29 **SECTION 31.7.(d)** In addition to the other reports required by this section, on
30 October 1, 2015, and every six months thereafter, the Office of State Construction shall report
31 on the status of the Facilities Condition Assessment Program (FCAP) to the Joint Legislative
32 Commission on Governmental Operations. The report shall include (i) summary information
33 about the average length of time that passes between FCAP assessments for an average State
34 building; (ii) detailed information about when the last FCAP assessment was for each State
35 building complex; and (iii) detailed information about the condition and repairs and renovations
36 needs of each State building complex.

37 **SECTION 31.7.(e)** In addition to the other reports required by this section, on
38 October 1, 2015, and quarterly thereafter, the State Construction Office shall report to the Joint
39 Legislative Oversight Committee on Capital Improvements on the status of plan review,
40 approval, and permitting for each State capital improvement project and community college
41 capital improvement project over which the Office exercises plan review, approval, and
42 permitting authority. Each report shall include (i) summary information about the workload of
43 the Office during the previous quarter, including information about the average length of time
44 spent by the State Construction Office on each major function it performs that is related to
45 capital project approval, and (ii) detailed information about the amount of time spent engaged
46 in those functions for each project that the State Construction Office worked on during the
47 previous quarter.

48 NATIONAL GUARD PROJECTS

49 **SECTION 31.8.(a)** The Department of Public Safety shall allocate the funds
50 appropriated for armory and facility development projects in Section 31.2 of this act to projects
51

1 designated by the Adjutant General of the North Carolina National Guard. The Adjutant
2 General shall allocate funds only to projects that were included in the latest Armory and
3 Facilities Development Plan developed pursuant to G.S. 127A-210 and may determine which
4 fiscal year of the biennium each designated project shall be funded. These funds will provide a
5 State match for federal funds made available for this purpose.

6 **SECTION 31.8.(b)** No later than June 1, 2017, and every two years thereafter, the
7 Department shall report on the use of these funds to the Joint Legislative Commission on
8 Governmental Operations, the Fiscal Research Division of the General Assembly, and the
9 Office of State Budget and Management. Each report shall include all of the following:

- 10 (1) The status of all projects undertaken pursuant to this section.
- 11 (2) The estimated total cost of each project.
- 12 (3) The date that work on each project began or is expected to begin.
- 13 (4) The date that work on each project was completed or is expected to be
14 completed.
- 15 (5) The actual cost of each project, including federal matching funds.
- 16 (6) Facilities planned for closure or reversion.
- 17 (7) A list of projects advanced in schedule, those projects delayed in schedule,
18 and an estimate of the amount of funds expected to revert to the General
19 Fund.

20 21 **PLAN FOR RELOCATING ALL DHHS OFFICES TO ONE LOCATION**

22 **SECTION 31.10.(a)** The Department of Health and Human Services, in
23 consultation with the Department of Administration, shall develop a plan for relocating the
24 personnel and resources of the Department of Health and Human Services that are located on
25 the Dorothea Dix campus and on other property leased or owned by the State in the Greater
26 Triangle area (consisting of Durham, Orange, Johnston, and Wake Counties) to one site
27 available to the State. The Department shall report the plan to the Joint Legislative Oversight
28 Committee on Health and Human Services and the Fiscal Research Division by the earlier of
29 October 1, 2016, or six months prior to the date on which the Department is required to move
30 some or all of its personnel and resources from the Dorothea Dix campus under the terms of an
31 agreement between the State and the City of Raleigh. The plan required by this section shall
32 include at least all of the following information:

- 33 (1) The location to which the personnel and resources of the Department of
34 Health and Human Services will be relocated.
- 35 (2) The square footage needed in order to accommodate the relocation.
- 36 (3) A statement of anticipated costs or benefits associated with the relocation.
- 37 (4) A schedule for implementation of the relocation plan.
- 38 (5) Identification of any potential obstacles to the relocation plan.
- 39 (6) Options for financing the relocation plan developed in conjunction with the
40 State Treasurer and the State Controller.

41 **SECTION 31.10.(b)** Notwithstanding any other provision of law, neither the
42 Department of Health and Human Services nor the Department of Administration shall enter
43 into any lease or other agreement to move the personnel or resources of the Department of
44 Health and Human Services that currently reside on the Dorothea Dix campus or on other
45 property leased or owned by the State in the Greater Triangle area to another site until
46 specifically authorized to do so by the General Assembly.

47 48 **MODIFY SPECIAL INDEBTEDNESS PROVISIONS**

49 **SECTION 31.11.(a)** G.S. 143-128.1C reads as rewritten:
50 **"§ 143-128.1C. Public-private partnership construction contracts.**

- 51 (a) Definitions for purposes of this section:

1 ...
 2 (4) Development contract. – Any contract between a governmental entity and a
 3 private developer under this section and, as part of the contract, the private
 4 developer is required to provide at least fifty percent (50%) of the financing
 5 for the total cost necessary to deliver the capital improvement project,
 6 whether through lease or ownership, for the governmental entity. For
 7 purposes of determining whether the private developer is providing the
 8 minimum percentage of the total financing costs, the calculation shall not
 9 include any payment made by a public entity or proceeds of financing
 10 arrangements by a private entity where the source of repayment is a public
 11 entity.

12 ...
 13 (10) State-supported financing arrangement. – Any installment financing
 14 arrangement, lease-purchase arrangement, arrangement under which funds
 15 are to be paid in the future based upon the availability of an asset or funds
 16 for payment, or any similar arrangement in the nature of a financing, under
 17 which a State entity agrees to make payments to acquire or obtain ownership
 18 or beneficial use of a capital asset for the State entity or any other State
 19 entity for a term, including renewal options, of greater than one year. Any
 20 arrangement that results in the identification of a portion of a lease payment,
 21 installment payment, or similar scheduled payment thereunder by a State
 22 entity as "interest" for purposes of federal income taxation shall
 23 automatically be a State-supported financing arrangement for purposes of
 24 this section. A true operating lease is not a State-supported financing
 25 arrangement.

26 ...
 27 (k) Leases and other agreements entered into under this section are subject to approval
 28 as follows:

29 ...
 30 (2) If a capital lease ~~is~~ or other agreement entered into by a State entity ~~that~~
 31 constitutes a State-supported financing arrangement and requires payments
 32 thereunder that are payable, whether directly or indirectly, and whether or
 33 not subject to the appropriation of funds for such payment, by payments
 34 from the General Fund of the State or other funds and accounts of the State
 35 that are funded from the general revenues and other taxes and fees of the
 36 State or State entities, not including taxes and fees that are required to be
 37 deposited to the Highway Fund or Highway Trust Fund, Fund to be used to
 38 make payments under capital leases or other agreements for projects covered
 39 under Article 14B of Chapter 136 of the General Statutes, that capital lease
 40 or other agreement shall be subject to the approval procedures required for
 41 special indebtedness by G.S. 142-83 and G.S. 142-84. This requirement shall
 42 not apply to any arrangement where bonds or other obligations are issued or
 43 incurred by a State entity to carry out a financing program authorized by the
 44 General Assembly under which such bonds or other obligations are payable
 45 from monies derived from specified, limited, nontax sources, so long as the
 46 payments under that arrangement by a State entity are limited to the sources
 47 authorized by the General Assembly.

48"

49 SECTION 31.11.(b) This section is effective when this act becomes law.

1 SECTION 31.13. Chapter 116D of the General Statutes is amended by adding a
2 new Article to read:

3 "Article 5.
4 "Managing Debt Capacity.

5 "§ 116D-55. Purpose.

6 The purpose of this Article is to provide tools for sound debt management at The University
7 of North Carolina by requiring each constituent institution to conduct an annual debt
8 affordability study, by requiring the establishment of guidelines for maintaining prudent debt
9 levels, and by establishing a system for prioritizing University capital needs when the needs
10 exceed the University's capacity for new debt.

11 "§ 116D-56. Debt affordability study required.

12 (a) Study Required. – The Board of Governors shall annually advise the Governor and
13 the General Assembly on the estimated debt capacity of The University of North Carolina for
14 the upcoming five fiscal years. The Board shall oversee the undertaking of an annual debt
15 affordability study and the establishment of guidelines for evaluating the University's debt
16 burden. The guidelines should include target and ceiling ratios of debt to obligated resources
17 and target and floor percentages for the five-year payout ratio. The Board shall also recommend
18 any other debt management policies it considers desirable and consistent with sound
19 management of the University's debt.

20 (b) Board of Governors Reporting Required. – The Board shall report its findings and
21 recommendations to the Office of State Budget and Management, the Joint Legislative
22 Commission on Governmental Operations, the State Treasurer, and The University of North
23 Carolina General Administration by February 1 of each year. The report shall be accompanied
24 by each of the reports provided to the Board pursuant to subsection (c) of this section.

25 (c) Constituent Institution Reporting Required. – No later than November 1 of each
26 year, each constituent institution shall report to the Board of Governors on its current and
27 anticipated debt levels. The report shall be made in a uniform format to be prescribed by the
28 Board of Governors. Each report shall include at least the following:

- 29 (1) The amount and type of outstanding debt of the institution.
- 30 (2) The sources of repayment of the debt.
- 31 (3) The amount of debt that the institution plans to issue or incur during the next
32 five years.
- 33 (4) A description of projects financed with the debt.
- 34 (5) The current bond rating of the institution and information about any changes
35 to that bond rating since the last report was submitted.
- 36 (6) Information about the constituent institution's debt management policies and
37 any recommendations for methods to maintain or improve the University's
38 bond rating.
- 39 (7) Debt burden comparisons to comparable peer institutions.
- 40 (8) Any other information requested by the Board of Governors.

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

- 42 (1) Debt. – Debt incurred under this Chapter or any other debt that will be
43 serviced with funds available to the institutions from gifts, grants, receipts,
44 Medicare reimbursements for education costs, hospital receipts from patient
45 care, or other funds, or any combination of these funds, but not including
46 debt that will be serviced with funds appropriated from the General Fund of
47 the State.
- 48 (2) Obligated resources. – As defined in G.S. 116D-22."

50 **AUTHORIZE STATE AGENCIES TO UNDERTAKE SMALL REPAIRS AND**
51 **RENOVATIONS PROJECTS WITH FUNDS AVAILABLE**

1 **SECTION 31.14.(a)** Notwithstanding G.S. 143C-8-7, a State agency may
2 undertake repairs and renovations projects so long as each project satisfies the following
3 requirements:

- 4 (1) Total project costs do not exceed three hundred thousand dollars (\$300,000).
- 5 (2) The project satisfies the requirements of G.S. 143C-4-3(b).
- 6 (3) The project is paid for with funds available to the agency.

7 **SECTION 31.14.(b)** Projects undertaken pursuant to this section shall be reported
8 to the Fiscal Research Division on a quarterly basis. A report under this subsection shall
9 include information about all of the following for each project:

- 10 (1) The facility at which the project is being undertaken.
- 11 (2) The nature and scope of the project.
- 12 (3) The source of funds for the project.
- 13 (4) The category of projects set forth in G.S. 143C-4-3(b) that the project falls
14 within.

16 **CREATE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON CAPITAL** 17 **IMPROVEMENTS**

18 **SECTION 31.16.(a)** Article 29 of Chapter 120 of the General Statutes is amended
19 by adding three new sections to read:

20 "§ 120-261. Creation and membership of Joint Legislative Oversight Committee on 21 Capital Improvements.

22 The Joint Legislative Oversight Committee on Capital Improvements is established. The
23 Committee consists of 16 members as follows:

- 24 (1) Eight members of the House of Representatives appointed by the Speaker of
25 the House of Representatives, at least two of whom are members of the
26 minority party.
- 27 (2) Eight members of the Senate appointed by the President Pro Tempore of the
28 Senate, at least two of whom are members of the minority party.

29 Terms on the Committee are for two years and begin on the convening of the General
30 Assembly in each odd-numbered year, except the terms of the initial members, which begin on
31 appointment and end on the day of the convening of the 2017 General Assembly. Members
32 may complete a term of service on the Committee even if they do not seek reelection or are not
33 reelected to the General Assembly, but resignation or removal from service in the General
34 Assembly constitutes resignation or removal from service on the Committee.

35 A member continues to serve until the member's successor is appointed. A vacancy shall be
36 filled within 30 days by the officer who made the original appointment.

37 "§ 120-262. Purpose and powers of the Committee.

38 (a) The Joint Legislative Oversight Committee on Capital Improvements shall have the
39 power to do all of the following:

- 40 (1) Examine, on a continuing basis, capital improvements requested by,
41 authorized for, and undertaken by or on behalf of State agencies.
- 42 (2) Have oversight over implementation of the six-year capital improvements
43 plan developed pursuant to G.S. 143C-8-5.
- 44 (3) Make recommendations to the General Assembly on ways to improve the
45 planning, financing, design, construction, and maintenance of State capital
46 improvements.
- 47 (4) Make reports and recommendations to the General Assembly regarding
48 which capital improvements requested by State agencies should be
49 authorized and how they should be funded.
- 50 (5) Examine any other topic the Committee believes to be related to its purpose.

1 (b) As used in this section, the term "capital improvement" shall have the same meaning
2 as in G.S. 143C-1-1.

3 **"§ 120-263. Organization of Committee.**

4 (a) The President Pro Tempore of the Senate and the Speaker of the House of
5 Representatives shall each designate a cochair of the Joint Legislative Oversight Committee on
6 Capital Improvements. The Committee shall meet upon the call of the cochairs.

7 (b) A quorum of the Committee is nine members. No action may be taken except by a
8 majority vote at a meeting at which a quorum is present. While in the discharge of its official
9 duties, the Committee has the powers of a joint committee under G.S. 120-19 through
10 G.S. 120-19.4.

11 (c) Members of the Committee receive subsistence and travel expenses as provided in
12 G.S. 120-3.1. The Committee may contract for consultants or hire employees in accordance
13 with G.S. 120-32.02. The Legislative Services Commission, through the Legislative Services
14 Officer, shall assign professional staff to assist the Committee in its work. Upon the direction
15 of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the
16 House of Representatives shall assign clerical staff to the Committee. The expenses for clerical
17 employees shall be borne by the Committee.

18 (d) The cochairs of the Committee may call upon other knowledgeable persons or
19 experts to assist the Committee in its work."

20 **SECTION 31.16.(b)** G.S. 120-76(9) is repealed.

21
22 **REQUIRE UNC CARRYFORWARD FUNDS TO BE USED FOR REPAIRS AND**
23 **RENOVATIONS**

24 **SECTION 31.17.(a)** G.S. 116-30.3(f) reads as rewritten:

25 "(f) Funds carried forward pursuant to subsection (a) of this section may be used for
26 one-time expenditures, provided, however, that the expenditures shall not impose additional
27 financial obligations on the State and shall not be used to support positions only for projects
28 that are eligible to receive funds from the Repairs and Renovations Reserve under
29 G.S. 143C-4-3(b)."

30 **SECTION 31.17.(b)** This section becomes effective June 30, 2015.

31
32 **MCGOUGH ARENA REPAIR PROJECT CHANGES**

33 **SECTION 31.18.** Section 36.12(f)(5) of S.L. 2014-100 reads as rewritten:

34 "**SECTION 36.12.(f)** Allocation of Proceeds. – The proceeds of bonds and notes shall be
35 allocated and expended as provided in this subsection:

36 ...

37 (5) A maximum aggregate principal amount of two million dollars (\$2,000,000)
38 to finance the capital facility costs of repairing or renovating the roof of the
39 McGough Arena and other facilities at the Western North Carolina
40 Agricultural Center."

41
42 **TECHNICAL CORRECTION RELATING TO USS NORTH CAROLINA**
43 **BATTLESHIP REPAIRS**

44 **SECTION 31.19.** Section 36.10 of S.L. 2014-100 reads as rewritten:

45 "**SECTION 36.10.** The General Assembly authorizes USS North Carolina Battleship hull
46 and cofferdam repairs to be funded at a maximum cost of thirteen million dollars (\$13,000,000)
47 in accordance with this section. The sum of three million dollars (\$3,000,000) of the proceeds
48 of bonds issued pursuant to Section 36.12(f)(7) of this act shall be used for this project. The
49 remainder of the project shall be funded with receipts or from other non-General Fund sources
50 available to the Department of Cultural Resources, and those funds are hereby appropriated for
51 that purpose."

1
2 **CAPITAL IMPROVEMENT REFORM**

3 **SECTION 31.20.(a)** Article 9 of Chapter 143B of the General Statutes is amended
4 by adding a new Part to read:

5 "Part 3A. Responsible Capital Planning Commission.

6 **"§ 143B-374.1. Creation of Responsible Capital Planning Commission; membership;**
7 **compensation; meetings; quorum; office space and staffing.**

8 (a) Creation. – There is created the Responsible Capital Planning Commission. The
9 Commission shall be located administratively within the Department of Administration but
10 shall exercise all of its prescribed statutory powers independently of the Secretary of
11 Administration.

12 (b) Membership. – The Responsible Capital Planning Commission shall consist of the
13 following seven members who shall serve at the pleasure of the Governor:

14 (1) Two capital projects coordinators from State agencies other than The
15 University of North Carolina.

16 (2) Two capital projects coordinators from The University of North Carolina
17 system.

18 (3) Two capital projects coordinators from community colleges in this State.

19 (4) The State Budget Director, who shall be the chair of the Commission.

20 (c) Compensation. – The Commission members shall receive no salary as a result of
21 servicing on the Commission but shall receive per diem, subsistence, and travel expenses in
22 accordance with the provisions of G.S. 120-3.1, 138-5, and 138-6, as applicable.

23 (d) Meetings. – The chair shall convene the Commission. Meetings shall be held as
24 often as necessary, but not less than four times a year.

25 (e) Quorum. – A majority of the members of the Commission shall constitute a quorum
26 for the transaction of business. The affirmative vote of a majority of the members present at
27 meetings of the Commission shall be necessary for action to be taken by the Commission.

28 (f) Office Space and Staffing. – The Department of Administration shall provide office
29 space in Raleigh for use as offices by the Commission, and the Department of Administration
30 shall receive no reimbursement from the Commission for the use of the property during the life
31 of the Commission. The Secretary of the Department of Administration shall be responsible for
32 staffing the Commission.

33 **"§ 143B-374.2. Powers and duties of the Responsible Capital Planning Commission.**

34 The Responsible Capital Planning Commission shall have the following powers and duties:

35 (1) To determine whether State agency capital improvement projects have been
36 responsibly planned, in accordance with G.S. 143C-8-13.

37 (2) To provide funds for advanced planning of State agency capital
38 improvements, in accordance with G.S. 143C-8-14.

39 (3) To adopt rules to accomplish the purposes set forth in this section in
40 accordance with Chapter 150B of the General Statutes."

41 **SECTION 31.20.(b)** Article 8 of Chapter 143C of the General Statutes is amended
42 by adding two new sections to read:

43 **"§ 143C-8-13. Capital improvements require certification of responsible planning.**

44 (a) Certification of Responsible Planning. – The Responsible Capital Planning
45 Commission shall have the power and duty to certify that State agency capital improvements
46 have been responsibly planned. The Commission shall deem a project to have been responsibly
47 planned if advanced planning for the project is complete and the resulting plans satisfy all of
48 the requirements of G.S. 143C-8-14(c)(2) and (3).

49 (b) State Agencies Shall Submit Plans to Commission. – A State agency that has
50 completed advanced planning of a large capital improvement shall submit those plans and any
51 additional information requested to the Responsible Capital Planning Commission so that the

1 Commission can determine whether or not to issue a certification of responsible planning
2 pursuant to subsection (a) of this section. This subsection applies to all large capital
3 improvements undertaken by State agencies, regardless of the source or sources of funding for
4 advanced planning or for project completion.

5 (c) Reporting. – The Responsible Capital Planning Commission shall report
6 certifications of responsible planning issued pursuant to subsection (a) of this section to the
7 Office of State Budget and Management and to the Fiscal Research Division of the Legislative
8 Services Commission within 10 days of their issuance. Each report shall include all of the
9 following:

10 (1) Details of the basis for the determination that the certification should be
11 issued, including information about the manner in which each of the criteria
12 set forth in G.S. 143-8-14(c)(2) and (3) is satisfied.

13 (2) The total estimated cost to complete the project.

14 (3) The estimated amount of non-State funding that the project will receive.

15 (4) An estimate of the operating costs for the completed project for the first five
16 and 10 years of its operation.

17 (5) A history of the revision of the project plans in response to feedback from
18 the Commission, including any previous denials of certifications.

19 (d) General Assembly Intent. – It is the intent of the General Assembly not to
20 appropriate funds for large capital improvements, or to authorize large capital improvements to
21 be funded with non-General Fund sources, beyond the advanced planning phase until the
22 Responsible Capital Planning Commission has issued a certification of responsible planning
23 pursuant to subsection (a) of this section.

24 (e) Effect of Appropriation or Authorization to Proceed Beyond Advanced Planning
25 Phase. – If the General Assembly appropriates funds for a large capital improvement beyond
26 the advanced planning phase, or authorizes a large capital improvement project to proceed
27 beyond that phase, no funds from any source shall be spent or encumbered for work on phases
28 beyond the advanced planning phase until the Responsible Capital Planning Commission issues
29 a certification of responsible planning pursuant to subsection (a) of this section.

30 (f) Large Capital Improvement. – A capital improvement with an estimated total cost
31 that exceeds five million dollars (\$5,000,000). The term does not include a repairs and
32 renovations project, as described in G.S. 143C-4-3(b).

33 **"§ 143C-8-14. Funds for advanced planning of State capital improvement projects.**

34 (a) Capital Improvement Planning Fund. – The Capital Improvement Planning Fund is
35 established as a special fund in the Responsible Capital Planning Commission of the
36 Department of Administration. It is the intent of the General Assembly to fund appropriations
37 for advanced planning of State agency capital improvement projects exclusively through this
38 Fund using the procedures set forth in this section.

39 (b) Use of Funds. – Funds in the Capital Improvement Planning Fund shall be available
40 for expenditure only upon appropriation by the General Assembly and shall be used only for
41 the advanced planning of State capital improvement projects.

42 (c) Procedure for Allocation of Funds. – The Responsible Capital Planning
43 Commission shall implement a competitive process for awarding funds from the Capital
44 Improvement Planning Fund and those funds shall be allocated to fund the advanced planning
45 of a State agency capital improvement project only if all of the following conditions are
46 satisfied:

47 (1) The project was included in the budget requests made to the Director of the
48 Budget in accordance with Article 3 of Chapter 143C of the General
49 Statutes.

50 (2) The Responsible Capital Planning Commission determines that there is or is
51 likely to be a State need for the project in the future and the need is

- 1 substantial enough to justify funding the planning of the project. The
2 assessment of the need for the project shall include an analysis of the
3 following:
- 4 a. The estimated statewide impact of the project.
 - 5 b. Whether or not the requesting agency adequately uses the space and
6 facilities currently allocated to it.
 - 7 c. Whether the project will mitigate immediate safety or environmental
8 concerns.
 - 9 d. The availability of non-State investment in and support for the
10 project.
 - 11 e. The estimated economic impact the project will have on the State.
 - 12 f. Any other aspect of the project that the Commission deems to be
13 relevant.
- 14 (3) The Responsible Capital Planning Commission determines that all of the
15 following conditions are satisfied:
- 16 a. The project is justified with respect to the capital improvement needs
17 criteria developed by the Office of State Budget and Management
18 pursuant to G.S. 143C-8-3.
 - 19 b. The project, or components of the project, will be planned using a
20 standard, reusable design as determined by the Department of
21 Administration.
 - 22 c. The project will minimize the inclusion of design elements that are
23 not related to the core function of the project.
 - 24 d. The estimated total cost of the project is lower than the total cost of
25 similar facilities or otherwise meets the need of the State agency at
26 the lowest possible cost to taxpayers.
 - 27 e. The project will incorporate design elements that have yielded
28 documented operating cost savings in similar facilities.
 - 29 f. The requesting agency's total repairs and renovations needs are not
30 excessive.
- 31 (4) The State agency that requested planning funds agrees to abide by any
32 limitations on the scope of the planning imposed by the Responsible Capital
33 Planning Commission.
- 34 (5) If the allocation of funds to plan a particular project exceeds five million
35 dollars (\$5,000,000), the Responsible Capital Planning Commission consults
36 with the Joint Legislative Commission on Governmental Operations prior to
37 the allocation and reports the allocation to the Joint Legislative Oversight
38 Committee on Capital Improvements.
- 39 (6) If the allocation of funds to plan a particular project is less than or equal to
40 five million dollars (\$5,000,000), the Responsible Capital Planning
41 Commission reports the allocation to the Joint Legislative Commission on
42 Governmental Operations and to the Joint Legislative Oversight Committee
43 on Capital Improvements within 60 days of the expenditure or reallocation.
- 44 (7) The amount of planning funds allocated for the project does not exceed four
45 percent (4%) of the estimated total cost to complete the project.
- 46 (8) The request for the project is accompanied by an estimate of the operating
47 costs for the completed facility for the first five and 10 years of its operation.
- 48 (9) The requesting agency agrees not to spend any of the funds allocated to it
49 from the Capital Improvement Planning Fund to seek LEED Certification
50 from the U.S. Green Building Council.

1 (d) Funding of Planning Does Not Constitute Authority to Complete Full Project. – An
2 allocation of funds for advanced planning of a project under this section shall not be construed
3 to authorize completion of any phase of a project beyond the advanced planning phase. The
4 General Assembly shall not be required to appropriate funds to complete a project that was
5 planned pursuant to this section.

6 (e) Timing of Department Allocations. – To the extent feasible, the Responsible Capital
7 Planning Commission shall ensure that the timing of allocations of funds from the Capital
8 Improvement Planning Fund is managed in a way that allows State agencies and the General
9 Assembly to provide for timely commencement and completion of post-planning stages of a
10 project when the General Assembly decides to authorize completion of a project beyond the
11 planning stage."

12 **SECTION 31.20.(c)** G.S. 143C-3-3 reads as rewritten:

13 **"§ 143C-3-3. Budget requests from State agencies in the executive branch.**

14 ...

15 (d) Capital Funds Request. – In addition to any other information requested by the
16 Director, any State agency proposing to (i) acquire real property, (ii) construct a new facility,
17 (iii) expand the building area (sq. ft.) of an existing facility, or (iv) rehabilitate an existing
18 facility to accommodate new or expanded uses shall accompany that request with all of the
19 following:

- 20 (1) An estimate of its space needs and other physical requirements, together
21 with a review and evaluation of that estimate prepared by the Department of
22 Administration, except that in the case of a project of The University of
23 North Carolina for which advance planning has not been completed, the
24 estimate of space needs may be a preliminary estimate.
- 25 (2) An estimate of project costs and cash flow requirements approved by the
26 Department of Administration.
- 27 (3) A certification of project feasibility as described in G.S. 143-341, except that
28 in the case of a project of The University of North Carolina for which
29 advance planning has not been completed, the request may be submitted
30 without this certification.
- 31 (4) An explanation of the method by which the acquisition, construction, or
32 rehabilitation is to be financed.
- 33 (5) An estimate of maintenance and operating costs, including personnel, for the
34 project, covering the first five and 10 years of operation.
- 35 (6) An estimate of revenues, if any, to be derived from the project, covering the
36 first five years of operation.
- 37 (7) A certification of responsible planning as described in G.S. 143C-8-13 if the
38 project is required to have one pursuant to that section.

39 This subsection does not apply to requests for State resources for railroad, highway, or
40 bridge construction or renovation."

41 **SECTION 31.20.(d)** No later than October 1, 2015, the Responsible Capital
42 Planning Commission shall report to the Joint Legislative Commission on Governmental
43 Operations on the process it will use to make allocation decisions under G.S. 143C-8-14, as
44 enacted by subsection (b) of this section. The report shall specifically include information about
45 the way that the Department will ensure that the process is competitive.

46 **SECTION 31.20.(e)** The Department of Administration and the Office of State
47 Construction shall collaborate with the Government Data Analytics Center (GDAC) in order to
48 leverage existing public-private partnerships and subject matter expertise that can facilitate
49 improvements in capital planning and analysis. The GDAC shall allocate sufficient resources
50 for this purpose and shall integrate financial and budget data with the Department's
51 comprehensive facilities data system.

1 **SECTION 31.20.(f)** This section is effective when this act becomes law, except
2 that it does not apply to projects (i) for which advanced planning was complete before that date
3 or (ii) that are authorized during the 2015-2017 fiscal biennium to be financed with the
4 proceeds of general obligation bonds.

5
6 **PART XXXII. FINANCE PROVISIONS**

7
8 **JDIG MODIFICATIONS**

9 **SECTION 32.11.(a)** G.S. 143B-437.51 is amended by adding new subdivisions to
10 read:

11 **"§ 143B-437.51. Definitions.**

12 The following definitions apply in this Part:

- 13 (1) Agreement. – A community economic development agreement under
14 G.S. 143B-437.57.
- 15 (2) Base period. – The period of time set by the Committee during which new
16 employees are to be hired for the positions on which the grant is based.
- 17 (3) Business. – A corporation, sole proprietorship, cooperative association,
18 partnership, S corporation, limited liability company, nonprofit corporation,
19 or other form of business organization, located either within or outside this
20 State.
- 21 (4) Committee. – The Economic Investment Committee established pursuant to
22 G.S. 143B-437.54.
- 23 (4a) Development tier. – The classification assigned to an area pursuant to
24 G.S. 143B-437.08.
- 25 (5) Eligible position. – A position created by a business and filled by a new
26 full-time employee in this State during the base period.
- 27 (6) Full-time employee. – A person who is employed for consideration for at
28 least 35 hours a week, whose wages are subject to withholding under Article
29 4A of Chapter 105 of the General Statutes, and who is determined by the
30 Committee to be employed in a permanent position according to criteria it
31 develops in consultation with the Attorney General. The term does not
32 include any person who works as an independent contractor or on a
33 consulting basis for the business.
- 34 (6a) High-yield project. – A project for which the agreement requires that a
35 business invest at least seven hundred fifty million dollars (\$750,000,000) in
36 private funds and create at least 2,000 eligible positions.
- 37 (6b) through (6j) Reserved.
- 38 (6k) Major market community. – A county in which the average weekly wage for
39 all insured private employers in the county is one of the three highest in the
40 State.
- 41 (7) New employee. – A full-time employee who represents a net increase in the
42 number of the business's employees statewide.
- 43 (8) Overdue tax debt. – Defined in G.S. 105-243.1.
- 44 (9) Related member. – Defined in G.S. 105-130.7A.
- 45 (10) Withholdings. – The amount withheld by a business from the wages of
46 employees in eligible positions under Article 4A of Chapter 105 of the
47 General Statutes."

48 **SECTION 32.11.(b)** G.S. 143B-437.52 reads as rewritten:

49 **"§ 143B-437.52. Job Development Investment Grant Program.**

50 (a) Program. – There is established the Job Development Investment Grant Program to
51 be administered by the Economic Investment Committee. In order to foster job creation and

1 investment in the economy of this State, the Committee may enter into agreements with
2 businesses to provide grants in accordance with the provisions of this Part. The Committee, in
3 consultation with the Attorney General, shall develop criteria to be used in determining whether
4 the conditions of this section are satisfied and whether the project described in the application
5 is otherwise consistent with the purposes of this Part. Before entering into an agreement, the
6 Committee must find that all the following conditions are met:

- 7 (1) The project proposed by the business will create, during the term of the
8 agreement, a net increase in employment in this State by the business.
- 9 (2) The project will benefit the people of this State by increasing opportunities
10 for employment and by strengthening this State's economy by, for example,
11 providing worker training opportunities, constructing and enhancing critical
12 infrastructure, increasing development in strategically important industries,
13 or increasing the State and local tax base.
- 14 (3) The project is consistent with economic development goals for the State and
15 for the area where it will be located.
- 16 (4) A grant under this Part is necessary for the completion of the project in this
17 State.
- 18 (5) The total benefits of the project to the State outweigh its costs and render the
19 grant appropriate for the project.
- 20 (6) For a project located in a development tier three area, the affected local
21 governments have participated in recruitment and offered incentives in a
22 manner appropriate to the project.

23 (b) Priority. – In selecting between applicants, a project that is located in an
24 Eco-Industrial Park certified under G.S. 143B-437.08 has priority over a comparable project
25 that is not located in a certified Eco-Industrial Park.

26 (c) ~~Awards.~~ Award Limitations. – The following limitations apply to grants awarded
27 under this Part:

- 28 (1) Maximum liability. – The maximum amount of total annual liability for
29 grants awarded in any single calendar year under this Part, including
30 amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, is
31 fifteen million dollars (~~\$15,000,000~~)-(\$15,000,000) for a year in which no
32 grants are awarded for a high-yield project and is thirty million dollars
33 (\$30,000,000) for a year in which a grant is awarded for a high-yield project.
34 No agreement may be entered into that, when considered together with other
35 existing agreements governing grants awarded during a single calendar year,
36 could cause the State's potential total annual liability for grants awarded in a
37 single calendar year to exceed ~~this~~ the applicable amount. The Department
38 shall make every effort to ensure that the average percentage of withholdings
39 of eligible positions for grants awarded under this Part does not exceed the
40 average of the range provided in G.S. 143B-437.56(a).
- 41 (2) Semiannual commitment limitations. – Of the amount authorized in
42 subdivision (1) of this subsection, no more than fifty percent (50%),
43 excluding roll-over amounts, may be awarded in any single calendar
44 semiannual period. A roll-over amount is any amount from a previous
45 semiannual period in the same calendar year that was not awarded as a grant.
46 The limitation of this subdivision does not apply to a grant awarded to a
47 high-yield project.

48 (d) Measuring Employment. – For the purposes of subdivision (a)(1) of this section and
49 G.S. 143B-437.51(5), 143B-437.51(7), and 143B-437.57(a)(11), the Committee may designate
50 that the increase or maintenance of employment is measured at the level of a division or

1 another operating unit of a business, rather than at the business level, if both of the following
 2 conditions are met:

- 3 (1) The Committee makes an explicit finding that the designation is necessary to
 4 secure the project in this State.
- 5 (2) The agreement contains terms to ensure that the business does not create
 6 eligible positions by transferring or shifting to the project existing positions
 7 from another project of the business or a related member of the business."

8 **SECTION 32.11.(c)** G.S. 143B-437.53 reads as rewritten:

9 **"§ 143B-437.53. Eligible projects.**

10 (a) ~~Minimum Number of Standards for Eligible Positions.~~ – A business may apply to
 11 the Committee for a grant for any project that creates the minimum number of eligible positions
 12 satisfying the wage standard as set out in the table below. If the project will be located in more
 13 than one ~~development tier area, area designation,~~ the location with the highest ~~development tier~~
 14 ~~area designation~~ determines the minimum number of eligible positions that must be
 15 ~~created.~~created and the applicable wage standard. The wage standard is met if the business pays
 16 an average weekly wage for all eligible positions that is equal to or greater than the percentage
 17 provided below of the average wage for all insured private employers in the county. Before
 18 using standards greater than the applicable minimum standards established by this subsection
 19 for a project located in a development tier one or two area, the Committee must find that the
 20 deviation from the minimum standards disproportionately increases the beneficial economic
 21 impact of the project and shall include the information for each project on which the finding is
 22 based in the report required by G.S. 143B-437.55(c).

| <u>Development Tier-Area Designation</u> | <u>Number of Eligible Positions</u> | <u>Wage Standard</u> |
|--|-------------------------------------|----------------------|
| <u>Development Tier One</u> | <u>1020</u> | <u>100%</u> |
| <u>Development Tier Two</u> | <u>2050</u> | <u>105%</u> |
| <u>Development Tier Three</u> | <u>20100</u> | <u>110%</u> |
| <u>Major Market Community</u> | <u>250</u> | <u>120%</u> |

23
24
25
26
27
28"

29 **SECTION 32.11.(d)** G.S. 143B-437.55(c) reads as rewritten:

30 "(c) Annual Reports. – The Committee shall publish a report on the Job Development
 31 Investment Grant Program on or before April 30 of each year. The Committee shall submit the
 32 report electronically to the House of Representatives Finance Committee, the Senate Finance
 33 Committee, the House of Representatives Appropriations Subcommittee on Natural and
 34 Economic Resources, the Senate Appropriations Committee on Natural and Economic
 35 Resources, and the Fiscal Research Division. The report shall include the following:

- 36 ...
- 37 (11) A listing of all businesses making an application under this Part and an
 38 explanation of whether each business ultimately located the project in this
 39 State regardless of whether the business was awarded a grant for the project
 40 under this Part.
- 41 (11a) A listing, itemized by development tier, of the number of offers that have
 42 been calculated, estimated, or extended but were not accepted and the total
 43 award value of the offers.

44"

45 **SECTION 32.11.(e)** G.S. 143B-437.56 reads as rewritten:

46 **"§ 143B-437.56. Calculation of minimum and maximum grants; factors considered.**

47 (a) Subject to the ~~limitations provisions of subsection-subsections (a1) and (d)~~ of this
 48 section, the amount of the grant awarded in each case shall be a percentage of the withholdings
 49 of eligible positions. ~~The percentage shall be no less than ten percent (10%) and no more than~~
 50 ~~seventy five percent (75%) of the withholdings of the eligible positions for a period of years.~~
 51 The percentage shall be no more than eighty percent (80%) for a development tier one area, no

1 more than seventy percent (70%) for a development tier two area, no more than sixty percent
2 (60%) for a development tier three area, and no more than fifty percent (50%) for a major
3 market community. If the project will be located in more than one area designation, the location
4 with the highest area designation determines the maximum percentage to be used. The
5 percentage used to determine the amount of the grant shall be based on criteria developed by
6 the Committee, in consultation with the Attorney General, after considering at least the
7 following:

- 8 (1) The number of eligible positions to be created.
- 9 (2) The expected duration of those positions.
- 10 (3) The type of contribution the business can make to the long-term growth of
11 the State's economy.
- 12 (4) The amount of other financial assistance the project will receive from the
13 State or local governments.
- 14 (5) The total dollar investment the business is making in the project.
- 15 (6) Whether the project utilizes existing infrastructure and resources in the
16 community.
- 17 (7) Whether the project is located in a development zone.
- 18 (8) The number of eligible positions that would be filled by residents of a
19 development zone.
- 20 (9) The extent to which the project will mitigate unemployment in the State and
21 locality.

22 (a1) Notwithstanding the percentage specified by subsection (a) of this section, if the
23 project is a high-yield project, the business has met the investment and job creation
24 requirements, and, for three consecutive years, the business has met all terms of the agreement,
25 the amount of the grant awarded shall be no more than one hundred percent (100%) of the
26 withholdings of eligible positions for each consecutive year the business maintains the
27 minimum job creation requirement and meets all terms of the agreement. A business receiving
28 an enhanced percentage of the withholdings of eligible positions under this subsection that fails
29 to maintain the minimum job creation requirement or meet all terms of the agreement will be
30 disqualified from receiving the enhanced percentage and will have the applicable percentage set
31 forth in subsection (a) of this section applied in the year in which the failure occurs and all
32 remaining years of the grant term.

33 (b) The term of the grant shall not exceed ~~12 years starting with the first year a grant~~
34 ~~payment is made.~~ the duration listed in this subsection. The first grant payment must be made
35 within six years after the date on which the grant was awarded. The number of years in the base
36 period for which grant payments may be made shall not exceed five years.

- 37 (1) For high-yield projects in which the business receives the enhanced
38 percentage pursuant to subsection (a1) of this section, 20 years starting with
39 the first year a grant payment is made. If a business is disqualified from the
40 enhanced percentage in one of the first 12 years, the term of the grant shall
41 not exceed 12 years starting with the first year a grant payment is made. If a
42 business is disqualified from receiving the enhanced percentage after the
43 first 12 years, the term of the grant ends in the year the disqualification
44 occurs.

- 45 (2) For all other projects, 12 years starting with the first year a grant payment is
46 made.

47 (c) The grant may be based only on eligible positions created during the base period.

48 (d) For any eligible position that is located in a major market community, eighty-five
49 percent (85%) of the annual grant approved for disbursement shall be payable to the business,
50 and fifteen percent (15%) shall be payable to the Utility Account pursuant to
51 G.S. 143B-437.61. For any eligible position that is located in a development tier three area,

1 ~~seventy five percent (75%)~~ ninety percent (90%) of the annual grant approved for disbursement
2 shall be payable to the business, and ~~twenty five percent (25%)~~ ten percent (10%) shall be
3 payable to the Utility Account pursuant to G.S. 143B-437.61. For any eligible position that is
4 located in a development tier two area, ~~eighty five percent (85%)~~ ninety-five percent (95%) of
5 the annual grant approved for disbursement shall be payable to the business, and ~~fifteen percent~~
6 ~~(15%)~~ five percent (5%) shall be payable to the Utility Account pursuant to G.S. 143B-437.61.
7 A position is located in the development tier area that has been assigned to the county in which
8 the project is located at the time the application is filed with the Committee. This subsection
9 does not apply to a high-yield project in years in which the business receives the enhanced
10 percentage pursuant to subsection (a1) of this section.

11 (e) A business that is receiving any other grant by operation of State law may not
12 receive an amount as a grant pursuant to this Part that, when combined with any other grants,
13 exceeds seventy-five percent (75%) of the withholdings of the business, unless the Committee
14 makes an explicit finding that the additional grant is necessary to secure the project.

15 (f) The amount of a grant associated with any specific eligible position, including any
16 amount transferred to the Utility Account pursuant to G.S. 143B-437.61, may not exceed six
17 thousand five hundred dollars (\$6,500) in any year."

18 **SECTION 32.11.(f)** G.S. 143B-437.57(a) reads as rewritten:

19 "(a) Terms. – Each community economic development agreement shall include at least
20 the following:

21 ...

22 (10) A provision that requires the business to maintain operations at the project
23 location or another location approved by the Committee for at least one
24 hundred fifty percent (150%) of the term of the grant and a provision to
25 ~~permit require~~ the Committee to recapture all or part an appropriate portion
26 of the grant at its discretion if the business does not remain at the site for the
27 required term.

28 (11) A provision that requires the business to maintain employment levels in this
29 State at the greater of the level of the year immediately preceding the base
30 period employment on the date of the application or the level of employment
31 on the date of the award.

32"

33 **SECTION 32.11.(g)** G.S. 143B-437.62 reads as rewritten:

34 "**§ 143B-437.62. Expiration.**

35 The authority of the Committee to award new grants expires January 1, ~~2016~~ 2018."

36 **SECTION 32.11.(h)** Section 15.19(a1) of S.L. 2013-360 reads as rewritten:

37 "**SECTION 15.19.(a1)** Notwithstanding G.S. 143B-437.52(c), for the ~~2013-2015 fiscal~~
38 ~~biennium~~, period from July 1, 2013, to December 31, 2015, the maximum total liability for
39 grants awarded, including amounts transferred to the Utility Account pursuant to
40 G.S. 143B-437.61, is ~~twenty two million five hundred thousand dollars (\$22,500,000)~~ and, for
41 ~~the period from July 1, 2015, to December 31, 2015,~~ the maximum total liability for grants
42 awarded, including amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, is
43 ~~seven million five hundred thousand dollars (\$7,500,000).~~ thirty-five million dollars
44 (\$35,000,000) if no grant is awarded for a high-yield project and is fifty million dollars
45 (\$50,000,000) if a grant is awarded for a high-yield project. No agreement may be entered into
46 that, when considered together with other existing agreements governing grants awarded during
47 an applicable time period provided in this subsection, could cause the State's potential total
48 annual liability for grants awarded in that time period to exceed the designated maximum
49 amount."

50 **SECTION 32.11.(i)** Subsections (d) and (h) of this section are effective when this
51 act becomes law. The remainder of this section becomes effective July 1, 2015, and applies to

1 awards made under Part 2G of Article 10 of Chapter 143B of the General Statutes on or after
2 that date.

3 4 **ONE NC MODIFICATIONS**

5 **SECTION 32.12.(a)** G.S. 143B-437.72(c) reads as rewritten:

6 "(c) Local Government Grant Agreement. – An agreement between the State and one or
7 more local governments shall contain the following provisions:

8 (1) A commitment on the part of the local government to match the funds
9 allocated by the ~~State~~. State, as provided in this subdivision. A local match
10 may include cash, fee waivers, in-kind services, the donation of assets, the
11 provision of infrastructure, or a combination of these.

12 a. For a local government in a development tier one area, as defined in
13 G.S. 143B-437.08, the State shall provide no more than three dollars
14 (\$3.00) for every one dollar (\$1.00) provided by the local
15 government.

16 b. For a local government in a development tier two area, as defined in
17 G.S. 143B-437.08, the State shall provide no more than two dollars
18 (\$2.00) for every one dollar (\$1.00) provided by the local
19 government.

20 c. For a local government in a development tier three area, as defined in
21 G.S. 143B-437.08, the State shall provide no more than one dollar
22 (\$1.00) for every one dollar (\$1.00) provided by the local
23 government.

24 d. For a local government in a major market community, as defined in
25 G.S. 143B-437.51, the State shall provide no more than one dollar
26 (\$1.00) for every two dollars (\$2.00) provided by the major market
27 community.

28"

29 **SECTION 32.12.(b)** This section is effective when this act becomes law.

30 31 **CORPORATE INCOME TAX RATE REDUCTION AND TAX BASE EXPANSION**

32 **SECTION 32.13.(a)** Effective for taxable years beginning on or after January 1,
33 2016, G.S. 105-130.3 reads as rewritten:

34 **"§ 105-130.3. Corporations.**

35 A tax is imposed on the State net income of every C Corporation doing business in this
36 State at the rate of ~~five percent (5%).~~ four percent (4%). An S Corporation is not subject to the
37 tax levied in this section."

38 **SECTION 32.13.(b)** Effective for taxable years beginning on or after January 1,
39 2017, G.S. 105-130.3, as rewritten by subsection (a) of this section, reads as rewritten:

40 **"§ 105-130.3. Corporations.**

41 A tax is imposed on the State net income of every C Corporation doing business in this
42 State at the rate of ~~four percent (4%).~~ three percent (3%). An S Corporation is not subject to the
43 tax levied in this section."

44 **SECTION 32.13.(c)** G.S. 105-130.3C is repealed.

45 **SECTION 32.13.(d)** G.S. 105-130.5 reads as rewritten:

46 **"§ 105-130.5. Adjustments to federal taxable income in determining State net income.**

47 ...

48 (b) The following deductions from federal taxable income shall be made in determining
49 State net income:

50 ...

- 1 ~~(6) Amortization in excess of depreciation allowed under the Code on the cost~~
2 ~~of any sewage or waste treatment plant, and facilities or equipment used for~~
3 ~~purposes of recycling or resource recovery of or from solid waste, or for~~
4 ~~purposes of reducing the volume of hazardous waste generated as provided~~
5 ~~in G.S. 105-130.10.~~
- 6 ~~(7) Depreciation of emergency facilities acquired prior to January 1, 1955. Any~~
7 ~~corporation shall be permitted to depreciate any emergency facility, as such~~
8 ~~is defined in section 168 of the Code, over its useful life, provided such~~
9 ~~facility was acquired prior to January 1, 1955, and no amortization has been~~
10 ~~claimed on such facility for State income tax purposes.~~
- 11 ~~...~~
- 12 ~~(11) If a deduction for an ordinary and necessary business expense was required~~
13 ~~to be reduced or was not allowed under the Code because the corporation~~
14 ~~claimed a federal tax credit against its federal income tax liability for the~~
15 ~~income year in lieu of a deduction, the amount by which the deduction was~~
16 ~~reduced and the amount of the deduction that was disallowed.—This~~
17 ~~deduction is allowed only to the extent that a similar credit is not allowed by~~
18 ~~this Chapter for the amount.~~
- 19 ~~(12) Reasonable expenses, in excess of deductions allowed under the Code, paid~~
20 ~~for reforestation and cultivation of commercially grown trees; provided, that~~
21 ~~this deduction shall be allowed only to those corporations in which the real~~
22 ~~owners of all the shares of such corporation are natural persons actively~~
23 ~~engaged in the commercial growing of trees, or the spouse, siblings, or~~
24 ~~parents of such persons. Provided, further, that in no case shall a corporation~~
25 ~~be allowed a deduction for the same reforestation or cultivation expenditure~~
26 ~~more than once.~~
- 27 ~~(13) The eligible income of an international banking facility to the extent~~
28 ~~included in determining federal taxable income, determined as follows:~~
- 29 ~~a. "International banking facility" shall have the same meaning as is set~~
30 ~~forth in the laws of the United States or regulations of the board of~~
31 ~~governors of the federal reserve system.~~
- 32 ~~b. The eligible income of an international banking facility for the~~
33 ~~taxable year shall be an amount obtained by multiplying State taxable~~
34 ~~income as determined under G.S. 105-130.3 (determined without~~
35 ~~regard to eligible income of an international banking facility and~~
36 ~~allocation and apportionment, if applicable) for such year by a~~
37 ~~fraction, the denominator of which shall be the gross receipts for~~
38 ~~such year derived by the bank from all sources, and the numerator of~~
39 ~~which shall be the adjusted gross receipts for such year derived by~~
40 ~~the international banking facility from:~~
- 41 ~~1. Making, arranging for, placing or servicing loans to foreign~~
42 ~~persons substantially all the proceeds of which are for use~~
43 ~~outside the United States;~~
- 44 ~~2. Making or placing deposits with foreign persons which are~~
45 ~~banks or foreign branches of banks (including foreign~~
46 ~~subsidiaries or foreign branches of the taxpayer) or with other~~
47 ~~international banking facilities; or~~
- 48 ~~3. Entering into foreign exchange trading or hedging~~
49 ~~transactions related to any of the transactions described in this~~
50 ~~paragraph.~~

- 1 e. ~~The adjusted gross receipts shall be determined by multiplying the~~
- 2 ~~gross receipts of the international banking facility by a fraction the~~
- 3 ~~numerator of which is the average amount for the taxable year of all~~
- 4 ~~assets of the international banking facility which are employed~~
- 5 ~~outside the United States and the denominator of which is the~~
- 6 ~~average amount for the taxable year of all assets of the international~~
- 7 ~~banking facility.~~
- 8 d. For the purposes of this subsection the term "foreign person" means:
- 9 1. An individual who is not a resident of the United States;
- 10 2. A foreign corporation, a foreign partnership or a foreign trust,
- 11 ~~as defined in section 7701 of the Code, other than a domestic~~
- 12 ~~branch thereof;~~
- 13 3. A foreign branch of a domestic corporation (including the
- 14 ~~taxpayer);~~
- 15 4. A foreign government or an international organization or an
- 16 ~~agency of either, or~~
- 17 5. An international banking facility.
- 18 ~~For purposes of this paragraph, the terms "foreign" and~~
- 19 ~~"domestic" shall have the same meaning as set forth in section 7701~~
- 20 ~~of the Code.~~
- 21 ...
- 22 (15) ~~The amount paid during the income year, pursuant to 7 U.S.C. § 1445-2, as~~
- 23 ~~marketing assessments on tobacco grown by the corporation in North~~
- 24 ~~Carolina.~~
- 25 ...
- 26 (18) ~~Interest, investment earnings, and gains of a trust, the settlors of which are~~
- 27 ~~two or more manufacturers that signed a settlement agreement with this~~
- 28 ~~State to settle existing and potential claims of the State against the~~
- 29 ~~manufacturers for damages attributable to a product of the manufacturers, if~~
- 30 ~~the trust meets all of the following conditions:~~
- 31 a. ~~The purpose of the trust is to address adverse economic~~
- 32 ~~consequences resulting from a decline in demand of the~~
- 33 ~~manufactured product potentially expected to occur because of~~
- 34 ~~market restrictions and other provisions in the settlement agreement.~~
- 35 b. A court of this State approves and retains jurisdiction over the trust.
- 36 e. ~~Certain portions of the distributions from the trust are made in~~
- 37 ~~accordance with certifications that meet the criteria in the agreement~~
- 38 ~~creating the trust and are provided by a nonprofit entity, the~~
- 39 ~~governing board of which includes State officials.~~
- 40 (19) ~~To the extent included in federal taxable income, the amount paid to the~~
- 41 ~~taxpayer during the taxable year from the Hurricane Floyd Reserve Fund in~~
- 42 ~~the Office of State Budget and Management for hurricane relief or~~
- 43 ~~assistance, but not including payments for goods or services provided by the~~
- 44 ~~taxpayer.~~
- 45 ...
- 46 (22) ~~To the extent included in federal taxable income, the amount paid to the~~
- 47 ~~taxpayer during the taxable year from the Disaster Relief Reserve Fund in~~
- 48 ~~the Office of State Budget and Management for hurricane relief or~~
- 49 ~~assistance, but not including payments for goods or services provided by the~~
- 50 ~~taxpayer.~~
- 51 ...

1 (c) The following other adjustments to federal taxable income shall be made in
2 determining State net income:

- 3 ...
- 4 (4) ~~The taxpayer shall add to federal taxable income the amount of any recovery~~
5 ~~during the taxable year not included in federal taxable income, to the extent~~
6 ~~the taxpayer's deduction of the recovered amount in a prior taxable year~~
7 ~~reduced the taxpayer's tax imposed by this Part but, due to differences~~
8 ~~between the Code and this Part, did not reduce the amount of the taxpayer's~~
9 ~~tax imposed by the Code. The taxpayer may deduct from federal taxable~~
10 ~~income the amount of any recovery during the taxable year included in~~
11 ~~federal taxable income under section 111 of the Code, to the extent the~~
12 ~~taxpayer's deduction of the recovered amount in a prior taxable year reduced~~
13 ~~the taxpayer's tax imposed by the Code but, due to differences between the~~
14 ~~Code and this Part, did not reduce the amount of the taxpayer's tax imposed~~
15 ~~by this Part.~~
- 16 (5) ~~A savings and loan association may deduct interest earned on deposits at the~~
17 ~~Federal Home Loan Bank of Atlanta, or its successor, to the extent included~~
18 ~~in federal taxable income.~~

19"

20 **SECTION 32.13.(e)** G.S. 105-130.6A(e), (f), (g), and (h) are repealed.

21 **SECTION 32.13.(f)** G.S. 105-130.5(a) is amended by adding a new subdivision to

22 read:

23 "(a) The following additions to federal taxable income shall be made in determining
24 State net income:

25 ...

- 26 (25) The amount of net interest expense to a related member as determined under
27 G.S. 105-130.7B."

28 **SECTION 32.13.(g)** G.S. 105-130.5(b) is amended by adding a new subdivision to

29 read:

30 "(b) The following deductions from federal taxable income shall be made in determining
31 State net income:

32 ...

- 33 (28) The amount of qualified interest expense to a related member as determined
34 under G.S. 105-130.7B."

35 **SECTION 32.13.(h)** Part 1 of Article 4 of Chapter 105 of the General Statutes is
36 amended by adding a new section to read:

37 **"§ 105-130.7B. Limitation on qualified interest for certain indebtedness.**

38 (a) Limitation. – In determining State net income, a deduction is allowed only for
39 qualified interest paid or accrued by the taxpayer to a related member during a taxable year.
40 This section does not limit the Secretary's authority to adjust a taxpayer's net income as it
41 relates to payments to or charges by a parent, subsidiary, or affiliated corporation in excess of
42 fair compensation in an intercompany transaction under G.S. 105-130.5(a)(9).

43 (b) Definitions. – The definitions in G.S. 105-130.7A apply in this section. In addition,
44 the following definitions apply in this section:

- 45 (1) Adjusted taxable income. – State net income of the taxpayer determined
46 without regard to this section and other adjustments as the Secretary may by
47 rule provide.

- 48 (2) Net interest expense. – The excess of the interest paid or accrued by the
49 taxpayer to a related member during the taxable year over the amount of
50 interest from a related member includible in the gross income of the taxpayer
51 for the taxable year.

1 (3) Qualified interest. – The amount of net interest paid or accrued to a related
2 member in a taxable year not to exceed thirty percent (30%) of the taxpayer's
3 adjusted taxable income. This limitation does not apply to interest paid or
4 accrued to a related member if one or more of the following applies:

5 a. Tax is imposed by the State under this Article on the related member
6 with respect to the interest.

7 b. The related member pays a net income tax or gross receipts tax to
8 another state with respect to the interest income.

9 c. The related member is organized under the laws of a foreign country
10 that has a comprehensive income tax treaty with the United States,
11 and that country taxes the interest income at a rate equal to or greater
12 than G.S. 105-130.3."

13 **SECTION 32.13.(i)** G.S. 105-130.7A(a) reads as rewritten:

14 "(a) Purpose. – Royalty payments received for the use of intangible property in this State
15 are income derived from doing business in this State. This section provides taxpayers with an
16 option concerning the method by which these royalties can be reported for taxation when the
17 recipient and the payer are related members. As provided in this section, these royalty
18 payments can be either (i) deducted by the payer and included in the income of the recipient, or
19 (ii) added back to the income of the payer and excluded from the income of the recipient.
20 Exercising the royalty reporting income option provided in this section does not prevent a
21 taxpayer from having taxable nexus in this State as otherwise provided in this Article and does
22 not permit the recipient of the income to exclude royalty payments from its calculation of sales
23 as defined in G.S. 105-130.4."

24 **SECTION 32.13.(j)** G.S. 105-102.3 is repealed.

25 **SECTION 32.13.(k)** Except as otherwise provided, subsections (a) through (c) of
26 this section are effective when this act becomes law. Subsections (d) through (h) of this section
27 are effective for taxable years beginning on or after January 1, 2016. Subsection (j) of this
28 section becomes effective July 1, 2016. The remainder of this section is effective when it
29 becomes law.
30

31 **PHASE-IN SINGLE SALES FACTOR APPORTIONMENT AND ADOPT** 32 **MARKET-BASED SOURCING**

33 **SECTION 32.14.(a)** Effective for taxable years beginning on or after January 1,
34 2016, G.S. 105-130.4(i) reads as rewritten:

35 "(i) ~~All~~Apportionable Income. – Except as otherwise provided in this section, all
36 apportionable income of corporations ~~other than public utilities, excluded corporations, and~~
37 ~~qualified capital intensive corporations~~ shall be apportioned to this State by multiplying the
38 income by a fraction, the numerator of which is the property factor plus the payroll factor plus
39 ~~twice~~three times the sales factor, and the denominator of which is ~~four~~five. If the sales factor
40 does not exist, the denominator of the fraction is the number of existing factors and if the sales
41 factor exists but the payroll factor or the property factor does not exist, the denominator of the
42 fraction is the number of existing factors plus ~~one~~two."

43 **SECTION 32.14.(b)** Effective for taxable years beginning on or after January 1,
44 2017, G.S. 105-130.4(i), as amended by subsection (a) of this section, reads as rewritten:

45 "(i) Apportionable Income. – Except as otherwise provided in this section, all
46 apportionable income of corporations shall be apportioned to this State by multiplying the
47 income by a fraction, the numerator of which is the property factor plus the payroll factor plus
48 ~~three~~four times the sales factor, and the denominator of which is ~~five~~six. If the sales factor
49 does not exist, the denominator of the fraction is the number of existing factors and if the sales
50 factor exists but the payroll factor or the property factor does not exist, the denominator of the
51 fraction is the number of existing factors plus ~~two~~three."

1 **SECTION 32.14.(c)** Effective for taxable years beginning on or after January 1,
2 2018, G.S. 105-130.4(i), as amended by subsection (b) of this section, reads as rewritten:

3 "(i) Apportionable Income. – Except as otherwise provided in this section, all
4 apportionable income of corporations shall be apportioned to this State by multiplying the
5 income by a fraction, the numerator of which is the property factor plus the payroll factor plus
6 four times the sales factor, and the denominator of which is six. If the sales factor does not
7 exist, the denominator of the fraction is the number of existing factors and if the sales factor
8 exists but the payroll factor or the property factor does not exist, the denominator of the
9 fraction is the number of existing factors plus three. the sales factor as determined under
10 subsection (l) of this section."

11 **SECTION 32.14.(d)** Effective for taxable years beginning on or after January 1,
12 2018, G.S. 105-130.4(a)(6), (a)(9), (j), (k), (s1), and (r) are repealed.

13 **SECTION 32.14.(e)** Effective for taxable years beginning on or after January 1,
14 2016, G.S. 106-130.4, as amended by subsection (a) of this section, reads as rewritten:

15 **"§ 105-130.4. Allocation and apportionment of income for corporations.**

16 (a) ~~As used in this section, unless the context otherwise requires:~~Definitions. – The
17 following definitions apply in this section:

18 (1) ~~"Apportionable income" means all Apportionable income. – All income that~~
19 ~~is apportionable under the United States Constitution.~~Constitution, including
20 income that arises from one or more of the following:

21 a. Transactions and activities in the regular course of the taxpayer's
22 trade or business.

23 b. Tangible and intangible property if the acquisition, management,
24 employment, development, or disposition of the property is or was
25 related to the operation of the taxpayer's trade or business.

26 (2) Business activity. – Any activity by a corporation that would establish nexus
27 pursuant to 15 U.S.C. § 381.

28 (3) Casual sale of property. – The sale of any property that was not purchased,
29 produced, or acquired primarily for sale in the corporation's regular trade or
30 business.

31 (4) ~~"Commercial domicile" means the Commercial domicile. – The principal~~
32 ~~place from which the trade or business of the taxpayer is directed or~~
33 ~~managed.~~

34 (3)(5) ~~"Compensation" means wages,~~Compensation. – Wages, salaries,
35 commissions and any other form of remuneration paid to employees for
36 personal services.

37 (4)(6) ~~"Excluded corporation" means any Excluded corporation. – Any corporation~~
38 ~~engaged in business as a building or construction contractor, a securities~~
39 ~~dealer, or a loan company or a corporation that receives more than fifty~~
40 ~~percent (50%) of its ordinary gross income from intangible property.~~

41 (7) Net dividends. – Gross dividend income received less related expenses.

42 (5)(8) ~~"Nonapportionable income" means all Nonapportionable income. – All~~
43 ~~income other than apportionable income.~~

44 (6)(9) ~~"Public utility" means any corporation~~Public utility. – A corporation that
45 owns or operates for public use any plant, equipment, property, franchise, or
46 license for the production, storage, transmission, sale, delivery, or furnishing
47 of electricity, water, steam, oil, oil products, or natural gas and that is subject
48 to control of one or more of the following entities: the North Carolina
49 Utilities Commission, the Federal Communications Commission, the
50 Interstate Commerce Commission, the Federal Energy Regulatory
51 Commission, or the Federal Aviation Agency; and that owns or operates for

~~public use any plant, equipment, property, franchise, or license for the transmission of communications, the transportation of goods or persons, or the production, storage, transmission, sale, delivery or furnishing of electricity, water, steam, oil, oil products, or gas. The term also includes a motor carrier of property whose principal business activity is transporting property by motor vehicle for hire over the public highways of this State.~~
Commission.

~~(7)~~(10) "Sales" means all Sales. – All gross receipts of the corporation except for the following receipts:

- a. Receipts from a casual sale of property.
- b. Receipts allocated under subsections (c) through (h) of this section.
- c. Receipts exempt from taxation.
- d. The portion of receipts realized from the sale or maturity of securities or other obligations that represents a return of principal.
- e. The portion of receipts from financial swaps and other similar financial derivatives that represents the notional principal amount that generates the cash flow traded in the swap agreement.
- f. Receipts in the nature of dividends received that are not taxed under this Part.

~~(8)~~ "Casual sale of property" means the sale of any property which was not purchased, produced or acquired primarily for sale in the corporation's regular trade or business.

~~(9)~~(11) "State" means any State. – A state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(b) Multistate Corporations. – A corporation having income from business activity which is taxable both within and without this State shall allocate and apportion its net income or net loss as provided in this section. For purposes of allocation and apportionment, a corporation is taxable in another state if ~~(i) the one or more of the following applies:~~

- (1) The corporation's business activity in that state subjects it to a net income tax or a tax measured by net income, or (ii) that income.
- (2) That state has jurisdiction based on the corporation's business activity in that state to subject the corporation to a tax measured by net income regardless whether that state exercises its jurisdiction. For purposes of this section, "business activity" includes any activity by a corporation that would establish a taxable nexus pursuant to 15 United States Code section 381.

(c) Nonapportionable Income. – Rents and royalties from real or tangible personal property, gains and losses, interest, dividends, patent and copyright royalties and other kinds of income, to the extent that they constitute nonapportionable income, less related expenses shall be allocated as provided in subsections (d) through (h) of this section.

(d) Rents and Royalties. – Net rents and royalties are allocable to this State as follows:

- (1) Net rents and royalties from real property located in this State are allocable to this State.
- (2) Net rents and royalties from tangible personal property are allocable to this State:
 - a. If and to the extent that the property is utilized in this State, or
 - b. In their entirety if the corporation's commercial domicile is in this State and the corporation is not organized under the laws of, or is not taxable in, the state in which the property is utilized.
- (3) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the

1 numerator of which is the number of days of physical location of the
2 property in the state during the rental or royalty period in the income year
3 and the denominator of which is the number of days of physical location of
4 the property everywhere during all rental or royalty periods in the income
5 year. If the physical location of the property during the rental or royalty
6 period is unknown or unascertainable by the corporation, tangible personal
7 property is utilized in the state in which the property was located at the time
8 the rental or royalty payer obtained possession.

9 (e) Gains and Losses. – Gains and losses are allocable to this State as follows:

- 10 (1) Gains and losses from sales or other disposition of real property located in
11 this State are allocable to this State.
12 (2) Gains and losses from sales or other disposition of tangible personal
13 property are allocable to this State if
14 a. The property had a situs in this State at the time of the sale, or
15 b. The corporation's commercial domicile is in this State and the
16 corporation is not taxable in the state in which the property has a
17 situs.
18 (3) Gains and losses from sales or other disposition of intangible personal
19 property are allocable to this State if the corporation's commercial domicile
20 is in this State.

21 (f) Interest and Net Dividends. – Interest and net dividends are allocable to this State if
22 the corporation's commercial domicile is in this State. ~~For purposes of this section, the term~~
23 ~~"net dividends" means gross dividend income received less related expenses.~~

24 (g) Intangible Property. – Intangible property is allocable to this State as follows:

- 25 (1) Royalties or similar income received from the use of patents, copyrights,
26 secret processes and other similar intangible property are allocable to this
27 State:
28 a. If and to the extent that the patent, copyright, secret process or other
29 similar intangible property is utilized in this State, or
30 b. If and to the extent that the patent, copyright, secret process or other
31 similar intangible property is utilized in a state in which the taxpayer
32 is not taxable and the taxpayer's commercial domicile is in this State.
33 (2) A patent, secret process or other similar intangible property is utilized in a
34 state to the extent that it is employed in production, fabrication,
35 manufacturing, processing, or other use in the state or to the extent that a
36 patented product is produced in the state. If the basis of receipts from such
37 intangible property does not permit allocation to states or if the accounting
38 procedures do not reflect states of utilization, the intangible property is
39 utilized in the state in which the taxpayer's commercial domicile is located.
40 (3) A copyright is utilized in a state to the extent that printing or other
41 publication originates in the state. If the basis of receipts from copyright
42 royalties does not permit allocation to states or if the accounting procedures
43 do not reflect states of utilization, the copyright is utilized in the state in
44 which the taxpayer's commercial domicile is located.

45 (h) Other Income. – The income less related expenses from any other activities
46 producing nonapportionable income or investments not otherwise specified in this section is
47 allocable to this State if the business situs of the activities or investments is located in this
48 State.

49 (i) Apportionable Income. – Except as otherwise provided in this section, all
50 apportionable income of corporations shall be apportioned to this State by multiplying the
51 income by a fraction, the numerator of which is the property factor plus the payroll factor plus

1 three times the sales factor, and the denominator of which is five. If the sales factor does not
2 exist, the denominator of the fraction is the number of existing factors and if the sales factor
3 exists but the payroll factor or the property factor does not exist, the denominator of the
4 fraction is the number of existing factors plus two.

5 ...

6 (1) ~~(4) Sales Factor.~~ – The sales factor is a fraction, the numerator of which is the total
7 sales of the corporation in this State during the income year, and the denominator of which is
8 the total sales of the corporation everywhere during the income year. ~~Notwithstanding any~~
9 ~~other provision under this Part, the receipts from any casual sale of property shall be excluded~~
10 ~~from both the numerator and the denominator of the sales factor. Where a corporation is not~~
11 ~~taxable in another state on its apportionable income but is taxable in another state only because~~
12 ~~of nonapportionable income, all sales shall be treated as having been made in this~~
13 ~~State. Receipts are in this State if the taxpayer's market for the sales is in this State. If the market~~
14 ~~for a sale cannot be determined, the state or states of assignment shall be reasonably~~
15 ~~approximated. If the taxpayer is not taxable in a state to which a receipt is assigned, or if the~~
16 ~~state of assignment cannot be determined or reasonably approximated, then the receipt shall be~~
17 ~~excluded from the denominator of the receipts factor.~~

18 The taxpayer's market for sales is in this State as provided below:

- 19 (1) In the case of sale, rental, lease, or license of real property, if and to the
20 extent the property is located in this State.
21 (2) In the case of rental, lease, or license of tangible personal property, if and to
22 the extent the property is located in this State.
23 (3) In the case of sale of a service, if and to the extent the service is delivered to
24 a location in this State.
25 (4) In the case of intangible property that is rented, leased, or licensed, if and to
26 the extent the property is used in this State. Intangible property utilized in
27 marketing a good or service to a consumer is "used in this State" if that good
28 or service is purchased by a consumer who is in this State.
29 (5) In the case of intangible property that is sold, if and to the extent the
30 property is used in this State. A contract right, government license, or similar
31 intangible property that authorizes the holder to conduct a business activity
32 in a specific geographic area is "used in this State" if the geographic area
33 includes all or part of this State.

34 Receipts from intangible property sales that are contingent on the
35 productivity, use, or disposition of the intangible property shall be treated as
36 receipts from the rental, lease, or licensing of the intangible property as
37 provided under subdivision (4) of this subsection. All other receipts from a
38 sale of intangible property shall be excluded from the numerator and
39 denominator of the sales factor.

- 40 ~~(2) Sales of tangible personal property are in this State if the property is~~
41 ~~received in this State by the purchaser. In the case of delivery of goods by~~
42 ~~common carrier or by other means of transportation, including transportation~~
43 ~~by the purchaser, the place at which the goods are ultimately received after~~
44 ~~all transportation has been completed shall be considered as the place at~~
45 ~~which the goods are received by the purchaser. Direct delivery into this State~~
46 ~~by the taxpayer to a person or firm designated by a purchaser from within or~~
47 ~~without the State shall constitute delivery to the purchaser in this State.~~

- 48 (3) Other sales are in this State if:

49 a. ~~The receipts are from real or tangible personal property located in~~
50 ~~this State; or~~

- 1 b. ~~The receipts are from intangible property and are received from~~
2 ~~sources within this State; or~~
3 e. ~~The receipts are from services and the income-producing activities~~
4 ~~are in this State.~~

5 (m) Railroad Company. – All apportionable income of a railroad company shall be
6 apportioned to this State by multiplying the income by a fraction, the numerator of which is the
7 "railway operating revenue" from business done within this State and the denominator of which
8 is the "total railway operating revenue" from all business done by the company as shown by its
9 records kept in accordance with the standard classification of accounts prescribed by the
10 Interstate Commerce Commission.

11 "Railway operating revenue" from business done within this State shall mean "railway
12 operating revenue" from business wholly within this State, plus the equal mileage proportion
13 within this State of each item of "railway operating revenue" received from the interstate
14 business of the company. "Equal mileage proportion" shall mean the proportion which the
15 distance of movement of property and passengers over lines in this State bears to the total
16 distance of movement of property and passengers over lines of the company receiving such
17 revenue. "Interstate business" shall mean "railway operating revenue" from the interstate
18 transportation of persons or property into, out of, or through this State. ~~¶~~

19 If the Secretary of Revenue finds, with respect to any particular company, that its
20 accounting records are not kept so as to reflect with exact accuracy such division of revenue by
21 State lines as to each transaction involving interstate revenue, the Secretary of Revenue may
22 adopt such regulations, based upon averages, as will approximate with reasonable accuracy the
23 proportion of interstate revenue actually earned upon lines in this State. Provided, that where a
24 railroad is being operated by a partnership which is treated as a corporation for income tax
25 purposes and pays a net income tax to this State, or if located in another state would be so
26 treated and so pay as if located in this State, each partner's share of the net profits shall be
27 considered as dividends paid by a corporation for purposes of this Part and shall be so treated
28 for inclusion in gross income, deductibility, and separate allocation of dividend income.

29 ~~(n) All apportionable income of a telephone company shall be apportioned to this State~~
30 ~~by multiplying the income by a fraction, the numerator of which is gross operating revenue~~
31 ~~from local service in this State plus gross operating revenue from toll services performed~~
32 ~~wholly within this State plus the proportion of revenue from interstate toll services attributable~~
33 ~~to this State as shown by the records of the company plus the gross operating revenue in North~~
34 ~~Carolina from other service less the uncollectible revenue in this State, and the denominator of~~
35 ~~which is the total gross operating revenue from all business done by the company everywhere~~
36 ~~less total uncollectible revenue. Provided, that where a telephone company is required to keep~~
37 ~~its records in accordance with the standard classification of accounts prescribed by the Federal~~
38 ~~Communications Commission the amounts in such accounts shall be used in computing the~~
39 ~~apportionment fraction as provided in this subsection.~~

40 (o) Motor Carrier. – All apportionable income of a motor carrier of property or a motor
41 carrier of people shall be apportioned by multiplying the income by a fraction, the numerator of
42 which is the number of vehicle miles in this State and the denominator of which is the total
43 number of vehicle miles of the company everywhere. The words "vehicle miles" shall mean
44 miles traveled by vehicles owned or operated by the company based upon one of the following:

- 45 (1) ~~miles traveled by vehicles~~ Miles on a scheduled route.
46 (2) ~~owned or operated by the company~~ Miles hauling property for a charge
47 ~~charge.~~
48 (3) ~~or traveling on a scheduled route.~~ Miles carrying passengers for a fare.

49 ~~(p) All apportionable income of a motor carrier of passengers shall be apportioned by~~
50 ~~multiplying the income by a fraction, the numerator of which is the number of vehicle miles in~~
51 ~~this State and the denominator of which is the total number of vehicle miles of the company~~

1 everywhere. The words "vehiele miles" shall mean miles traveled by vehieles owned or
2 operated by the company carrying passengers for a fare or traveling on a scheduled route.

3 ~~(q) All apportionable income of a telegraph company shall be apportioned by~~
4 ~~multiplying the income by a fraction, the numerator of which is the property factor plus the~~
5 ~~payroll factor plus the sales factor and the denominator of which is three.~~

6 ~~The property factor shall be as defined in subsection (j) of this section, the payroll factor~~
7 ~~shall be as defined in subsection (k) of this section, and the sales factor shall be as defined in~~
8 ~~subsection (l) of this section.~~

9 ~~(r) Single Sales Factor. – All apportionable income of an excluded corporation and of~~
10 ~~all other public utilities shall be apportioned by multiplying the income by the sales factor as~~
11 ~~determined under subsection (l) of this section.~~

12 ~~(s) Transportation Corporation. – All apportionable income of an air transportation~~
13 ~~corporation or a water transportation corporation shall be apportioned by a fraction, the~~
14 ~~numerator of which is the corporation's revenue ton miles in this State and the denominator of~~
15 ~~which is the corporation's revenue ton miles everywhere. The term "revenue ton mile" means~~
16 ~~one ton of passengers, freight, mail, or other cargo carried one mile. In making this~~
17 ~~computation, a passenger is considered to weigh two hundred pounds.~~

18 ...

19 ~~(s2) Broadcaster. – All apportionable income of a broadcaster shall be apportioned as~~
20 ~~provided in this subsection. The apportionment factor is a fraction, the numerator of which is~~
21 ~~the sum of the broadcaster's gross receipts from sources within the State and the denominator of~~
22 ~~which is the sum of the broadcaster's gross receipts from transactions and activity in the regular~~
23 ~~course of its trade or business everywhere. Advertising gross receipts and license fees for audio~~
24 ~~or video programming in release shall be attributable to this State in accordance with the~~
25 ~~audience factor in this State. Gross receipts from subscriber fees, rents, sales ,or similar charges~~
26 ~~from audio or video programming in release shall be attributable to this State based on the~~
27 ~~amount of subscriber or other fees paid by customers in this State. A sale of audio or video~~
28 ~~programming on tangible media is sourced to this State as sales of tangible personal property.~~

29 ~~The following definitions apply in this subsection:~~

30 ~~(1) Audience factor. – The factor determined by the ratio provided in this~~
31 ~~subdivision. The factor shall be determined either by reference to the books~~
32 ~~and records of the taxpayer or by reference to published rating statistics,~~
33 ~~provided the method used by the taxpayer is consistently used from year to~~
34 ~~year for this purpose and fairly represents the taxpayer's activity in this State.~~
35 ~~The ratio is as follows:~~

36 ~~a. Television station. – The ratio that the viewing audience located in~~
37 ~~this State for a television station bears to the total viewing audience~~
38 ~~for a television station.~~

39 ~~b. Radio station. – The ratio that the listening audience in this State for~~
40 ~~a radio station bears to the total listening audience for a radio station.~~

41 ~~c. Cable or satellite program and channel broadcasts. – The ratio that~~
42 ~~the subscribers for a cable or satellite system located in this State~~
43 ~~bears to the total subscribers of a cable or satellite system. If the~~
44 ~~number of subscribers cannot be accurately determined from the~~
45 ~~books and records maintained by the taxpayer, the ratio shall be~~
46 ~~determined on the basis of the applicable year's subscription statistics~~
47 ~~located in published surveys, provided the source selected is~~
48 ~~consistently used from year to year for this purpose.~~

49 ~~(2) Broadcast. – The transmission of audio or video programming, directly or~~
50 ~~indirectly, to viewers and listeners by any other method of communication or~~
51 ~~combination of methods.~~

- (3) Broadcaster. – A person that provides audio or video programming to customers in this State by digital or analog means in exchange for one or more of the following: advertising receipts, subscriber fees, license, rent, or similar fees. The term includes a television or radio station licensed by the Federal Communications Commission, including network-owned or affiliated stations, a television or radio broadcast network, a cable program network, a distributor of audio or video programming, a cable system operator, and satellite system operator.
- (4) Release or in release. – The placing of film or radio programming into service. A film or radio program is placed into service when it is first broadcast to the primary audience for entertainment, educational, commercial, artistic, or other purpose. Each episode of a television or radio series is placed in service when it is first broadcast. A program is not placed in service merely because it is completed and therefore in a condition or state of readiness and availability for broadcast or merely because it is previewed to prospective sponsors or purchasers.
- (5) Rent. – License fees or other payments or consideration provided in exchange for the broadcast or other use of television or radio programming.
- (6) Subscriber. – The individual residence or other outlet that is the ultimate recipient of the transmission of the audio or video programming.

...."

SECTION 32.14.(f) Except as otherwise provided, this section is effective when it becomes law.

FRANCHISE TAX RATE REDUCTION AND TAX BASE SIMPLIFICATION

SECTION 32.15.(a) G.S. 105-114(b) reads as rewritten:

"(b) **Definitions.** – The following definitions apply in this Article:

...

- (5) Total assets. – The sum of all cash, investments, furniture, fixtures, equipment, receivables, intangibles, and any other items of value owned by a person or a business entity."

SECTION 32.15.(b) G.S. 105-120.2 reads as rewritten:

"§ 105-120.2. Franchise or privilege tax on holding companies.

(a) Every corporation, domestic and foreign, incorporated or, by an act, domesticated under the laws of this State or doing business in this State that, at the close of its taxable year, is a holding company as defined in subsection (c) of this section, shall, pursuant to the provisions of G.S. 105-122, do all of the following:

- (1) File a return.
- (2) Determine the total amount of its ~~issued and outstanding capital stock, surplus and undivided profits~~ net worth.
- (3) Apportion ~~such outstanding capital stock, surplus and undivided profits~~ its net worth to this State.

(b) ~~(4)~~ Tax Rate. – Every corporation taxed under this section shall annually pay to the Secretary of Revenue, at the time the return is due, the greater of the following:

- (1) ~~a~~ A franchise or privilege tax at the rate of ~~one dollar and fifty cents (\$1.50)~~ one dollar (\$1.00) per one thousand dollars (\$1,000) of the amount determined under subsection (a) of this section, but in no case shall the tax be more than ~~seventy five thousand dollars (\$75,000)~~ nor less than ~~thirty five dollars (\$35.00)~~ one hundred fifty thousand dollars (\$150,000) nor less than two hundred dollars (\$200.00).

(2) ~~Notwithstanding the provisions of subdivision (1) of this subsection, if~~ If the tax produced pursuant to application of calculated under this paragraph (2) subdivision exceeds the tax produced pursuant to application of calculated under subdivision (1), (1) of this subsection, then the tax is levied at the rate of ~~one dollar and fifty cents (\$1.50)~~ one dollar (\$1.00) per one thousand dollars (\$1,000) on the greater of the following:

- a. Fifty-five percent (55%) of the appraised value as determined for ad valorem taxation of all the real and tangible personal property in this State of each such corporation plus the total appraised value of intangible property returned for taxation of intangible personal property as computed under G.S. 105-122(d).
- b. The total actual investment in tangible property in this State of such corporation as computed under G.S. 105-122(d).

...."

SECTION 32.15.(c) G.S. 105-122 reads as rewritten:

"§ 105-122. Franchise or privilege tax on domestic and foreign corporations.

(a) Tax Imposed. — An annual franchise or privilege tax is imposed on a corporation doing business in this State. The tax is determined on the basis of the books and records of the corporation as of the close of its income year. A corporation subject to the tax must file a return under affirmation with the Secretary at the place and in the manner prescribed by the Secretary. The return must be signed by the president, vice-president, treasurer, or chief financial officer of the corporation. The return is due on or before the fifteenth day of the fourth month following the end of the corporation's income year.

(b) Determination of Capital Base.—Net Worth. — A corporation taxed under this section shall determine the total amount of its ~~issued and outstanding capital stock, surplus, and undivided profits. No reservation or allocation from surplus or undivided profits is allowed except as provided below:~~ net worth. The net worth of a corporation is its total assets without regard to the deduction for accumulated depreciation, depletion, or amortization less its total liabilities, computed in accordance with generally accepted accounting principles as of the end of the corporation's taxable year. If the corporation does not maintain its books and records in accordance with generally accepted accounting principles, then its net worth is computed in accordance with the accounting method used by the entity for federal tax purposes so long as the method fairly reflects the corporation's net worth for purposes of the tax levied by this section. A corporation's net worth is subject to the following adjustments:

- (1) ~~Definite and accrued legal liabilities.~~ A deduction for accumulated depreciation, depletion, and amortization is determined in accordance with the method used for federal tax purposes.
- (1a) ~~Billings in excess of costs that are considered a deferred liability under the percentage of completion method of revenue recognition.~~
- (2) ~~Taxes accrued, dividends declared, and reserves for depreciation of tangible assets and for amortization of intangible assets as permitted for income tax purposes.~~ An addition for indebtedness the corporation owes to a parent, a subsidiary, an affiliate, or a noncorporate entity in which the corporation or an affiliated group of corporations owns directly or indirectly more than fifty percent (50%) of the capital interests of the noncorporate entity. The amount added back to the corporation's net worth may be further adjusted if part of the capital of the creditor is capital borrowed from a source other than a parent, a subsidiary, or an affiliate. The debtor corporation may deduct a proportionate part of the indebtedness based on the ratio of the borrowed capital of the creditor to the total assets of the creditor. For purposes of this subdivision, borrowed capital does not include indebtedness incurred by a

- 1 bank arising out of the receipt of a deposit and evidenced by a certificate of
2 deposit, a passbook, a cashier's check, a certified check, or other similar
3 document.
- 4 (2a) If the creditor corporation is taxable under this Article, the creditor
5 corporation may deduct the amount of indebtedness owed to it by a parent,
6 subsidiary, or affiliated corporation to the extent that such indebtedness has
7 been added by the debtor corporation.
- 8 (3) ~~When including deferred tax liabilities, a corporation may reduce the amount~~
9 ~~included in its base by netting against that amount deferred tax assets. The~~
10 ~~reduction may not decrease deferred tax liabilities below zero (0). A~~
11 ~~corporation may deduct the cost of treasury stock.~~
- 12 (4) ~~Reserves for the cost of any air cleaning device or sewage or waste~~
13 ~~treatment plant, including waste lagoons, and pollution abatement equipment~~
14 ~~purchased or constructed and installed which reduces the amount of air or~~
15 ~~water pollution resulting from the emission of air contaminants or the~~
16 ~~discharge of sewage and industrial wastes or other polluting materials or~~
17 ~~substances into the outdoor atmosphere or streams, lakes, or rivers, upon~~
18 ~~condition that the corporation claiming such deductible liability shall furnish~~
19 ~~to the Secretary a certificate from the Department of Environment and~~
20 ~~Natural Resources or from a local air pollution control program for~~
21 ~~air cleaning devices located in an area where the Environmental~~
22 ~~Management Commission has certified a local air pollution control program~~
23 ~~pursuant to G.S. 143-215.112 certifying that the Environmental Management~~
24 ~~Commission or local air pollution control program has found as a fact that~~
25 ~~the air cleaning device, waste treatment plant or pollution abatement~~
26 ~~equipment purchased or constructed and installed as above described has~~
27 ~~actually been constructed and installed and that such plant or equipment~~
28 ~~complies with the requirements of the Environmental Management~~
29 ~~Commission or local air pollution control program with respect to such~~
30 ~~devices, plants or equipment, that such device, plant or equipment is being~~
31 ~~effectively operated in accordance with the terms and conditions set forth in~~
32 ~~the permit, certificate of approval, or other document of approval issued by~~
33 ~~the Environmental Management Commission or local air pollution control~~
34 ~~program and that the primary purpose thereof is to reduce air or water~~
35 ~~pollution resulting from the emission of air contaminants or the discharge of~~
36 ~~sewage and waste and not merely incidental to other purposes and functions.~~
- 37 (5) ~~Reserves for the cost of purchasing and installing equipment or constructing~~
38 ~~facilities for the purpose of recycling or resource recovering of or from solid~~
39 ~~waste or for the purpose of reducing the volume of hazardous waste~~
40 ~~generated shall be treated as deductible for the purposes of this section upon~~
41 ~~condition that the corporation claiming such deductible liability shall furnish~~
42 ~~to the Secretary a certificate from the Department of Environment and~~
43 ~~Natural Resources certifying that the Department of Environment and~~
44 ~~Natural Resources has found as a fact that the equipment or facility has~~
45 ~~actually been purchased, installed or constructed, that it is in conformance~~
46 ~~with all rules and regulations of the Department of Environment and Natural~~
47 ~~Resources, and the recycling or resource recovering is the primary purpose~~
48 ~~of the facility or equipment.~~
- 49 (6) ~~Reserves for the cost of constructing facilities of any private or public utility~~
50 ~~built for the purpose of providing sewer service to residential and outlying~~
51 ~~areas shall be treated as deductible for the purposes of this section; the~~

1 deductible liability allowed by this section shall apply only with respect to
2 such pollution abatement plants or equipment constructed or installed on or
3 after January 1, 1955.

4 (7) The cost of treasury stock.

5 (8) In the case of an international banking facility, the capital base shall be
6 reduced by the excess of the amount as of the end of the taxable year of all
7 assets of an international banking facility which are employed outside the
8 United States over liabilities of the international banking facility owed to
9 foreign persons. For purposes of such reduction, foreign persons shall have
10 the same meaning as defined in G.S. 105-130.5(b)(13)d.

11 Every corporation doing business in this State which is a parent, subsidiary, or affiliate of
12 another corporation shall add to its capital stock, surplus, and undivided profits all indebtedness
13 owed to a parent, subsidiary, or affiliated corporation as a part of its capital used in its business
14 and as a part of the base for franchise tax under this section. If any part of the capital of the
15 creditor corporation is capital borrowed from a source other than a parent, subsidiary, or
16 affiliate, the debtor corporation, which is required under this subsection to include in its tax
17 base the amount of debt by reason of being a parent, subsidiary, or affiliate of the creditor
18 corporation, may deduct from the debt included a proportionate part determined on the basis of
19 the ratio of the borrowed capital of the creditor corporation to the total assets of the creditor
20 corporation. If the creditor corporation is also taxable under the provisions of this section, the
21 creditor corporation is allowed to deduct from the total of its capital, surplus, and undivided
22 profits the amount of any debt owed to it by a parent, subsidiary or affiliated corporation to the
23 extent that the debt has been included in the tax base of the parent, subsidiary, or affiliated
24 debtor corporation reporting for taxation under the provisions of this section.

25 (b1) Definitions. – The following definitions apply in subsection (b) of this section:

26 (1) Affiliate. – The same meaning as specified in G.S. 105-130.2. A corporation
27 is an affiliate of another corporation when both are directly or indirectly
28 controlled by the same parent corporation or by the same or associated
29 financial interests by stock ownership, interlocking directors, or by any other
30 means whatsoever, whether the control is direct or through one or more
31 subsidiary, affiliated, or controlled corporations.

32 (2) Affiliated group. – The same meaning as defined in G.S. 105-114.1.

33 (3) Capital interest. – The right under an entity's governing law to receive a
34 percentage of the entity's assets upon dissolution after payments to creditors.

35 (4) Governing law. – The law under which the noncorporate entity is organized.

36 (2)(5) Indebtedness. – All loans, credits, goods, supplies, or other capital of
37 whatsoever nature furnished by a parent, a subsidiary, or affiliated
38 corporation, an affiliate, or a noncorporate entity in which the corporation or
39 an affiliated group of corporations owns directly or indirectly more than fifty
40 percent (50%) of the capital interests of the noncorporate entity, other than
41 indebtedness endorsed, guaranteed, or otherwise supported by one of these
42 corporations.

43 (6) Noncorporate entity. – A person that is neither a human being nor a
44 corporation.

45 (3)(7) Parent. – The same meaning as specified in G.S. 105-130.2. A corporation is
46 a parent of another corporation when, directly or indirectly, it controls the
47 other corporation by stock ownership, interlocking directors, or by any other
48 means whatsoever exercised by the same or associated financial interests,
49 whether the control is direct or through one or more subsidiary, affiliated, or
50 controlled corporations.

1 ~~(4)(8)~~ Subsidiary. – ~~The same meaning as specified in G.S. 105-130.2.A~~
2 corporation is a subsidiary of another corporation when, directly or
3 indirectly, it is subject to control by the other corporation by stock
4 ownership, interlocking directors, or by any other means whatsoever
5 exercised by the same or associated financial interest, whether the control is
6 direct or through one or more subsidiary, affiliated, or controlled
7 corporations.

8 (c1) Apportionment. – A corporation that is doing business in this State and in one or
9 more other states must apportion its ~~capital stock, surplus, and undivided profits~~ net worth
10 to this State. A corporation must use the apportionment method set out in subdivision (1) of this
11 subsection unless the Department has authorized it to use a different method under subdivision
12 (2) of this subsection. The portion of a corporation's ~~capital stock, surplus, and undivided~~
13 ~~profits~~ net worth determined by applying the appropriate apportionment method is considered
14 the amount of ~~capital stock, surplus, and undivided profits~~ net worth the corporation uses in its
15 business in this State.

16 (1) Statutory. – A corporation that is subject to income tax under Article 4 of
17 this Chapter must apportion its ~~capital stock, surplus, and undivided profits~~
18 net worth by using the fraction it applies in apportioning its income under
19 that Article. A corporation that is not subject to income tax under Article 4
20 of this Chapter must apportion its ~~capital stock, surplus, and undivided~~
21 ~~profits~~ net worth by using the fraction it would be required to apply in
22 apportioning its income if it were subject to that Article. The apportionment
23 method set out in this subdivision is considered the statutory method of
24 apportionment and is presumed to be the best method of determining the
25 amount of a corporation's ~~capital stock, surplus, and undivided profits~~ net
26 worth attributable to the corporation's business in this State.

27 (2) Alternative. – A corporation that believes the statutory apportionment
28 method set out in subdivision (1) of this subsection subjects a greater portion
29 of its ~~capital stock, surplus, and undivided profits~~ net worth to tax under this
30 section than is attributable to its business in this State may make a written
31 request to the Secretary for permission to use an alternative method. The
32 request must set out the reasons for the corporation's belief and propose an
33 alternative method. The corporation has the burden of establishing by clear,
34 cogent, and convincing proof that the statutory apportionment method
35 subjects a greater portion of the corporation's ~~capital stock, surplus, and~~
36 ~~undivided profits~~ net worth to tax under this section than is attributable to its
37 business in this State and that the proposed alternative method is a better
38 method of determining the amount of the corporation's ~~capital stock, surplus,~~
39 ~~and undivided profits~~ net worth attributable to the corporation's business in
40 this State.

41 The Secretary must issue a written decision on a corporation's request for
42 an alternative apportionment method. If the decision grants the request, it
43 must describe the alternative method the corporation is authorized to use and
44 state the tax years to which the alternative method applies. A decision may
45 apply to no more than three tax years. A corporation may renew a request to
46 use an alternative apportionment method by following the procedure in this
47 subdivision. A decision of the Secretary on a request for an alternative
48 apportionment method is final and is not subject to administrative or judicial
49 review. A corporation authorized to use an alternative method may apportion
50 its ~~capital stock, surplus, and undivided profits~~ net worth in accordance with
51 the alternative method or the statutory method.

1 (3) Repealed by Session Laws 2011-330, s. 5, effective June 27, 2011.

2 (d) Tax Base and Tax Rate. — After determining the proportion of its ~~total capital stock,~~
3 ~~surplus and undivided profits net worth~~ as set out in subsection (c1) of this section, which
4 amount shall not be less than fifty-five percent (55%) of the appraised value as determined for
5 ad valorem taxation of all the real and tangible personal property in this State of each
6 corporation nor less than its total actual investment in tangible property in this State, every
7 corporation taxed under this section shall annually pay to the Secretary of Revenue, at the time
8 the return is due, a franchise or privilege tax at the rate of one dollar ~~and fifty cents (\$1.50)~~
9 (\$1.00) per one thousand dollars (\$1,000) of the total amount of ~~capital stock, surplus and~~
10 ~~undivided profits net worth~~ as provided in this section. The tax imposed in this section shall not
11 be less than ~~thirty five dollars (\$35.00)~~ two hundred dollars (\$200.00) and is for the privilege
12 of carrying on, doing business, and/or the continuance of articles of incorporation or
13 domestication of each corporation in this State. Appraised value of tangible property including
14 real estate is the ad valorem valuation for the calendar year next preceding the due date of the
15 franchise tax return. The term "total actual investment in tangible property" as used in this
16 section means the total original purchase price or consideration to the reporting taxpayer of its
17 tangible properties, including real estate, in this State plus additions and improvements thereto
18 less reserve for depreciation as permitted for income tax purposes, ~~and also less any~~
19 ~~indebtedness incurred and existing by virtue of the purchase of any real estate and any~~
20 ~~permanent improvements made thereon. In computing "total actual investment in tangible~~
21 ~~personal property" a corporation may deduct reserves for the entire cost of any air cleaning~~
22 ~~device or sewage or waste treatment plant, including waste lagoons, and pollution abatement~~
23 ~~equipment purchased or constructed and installed which reduces the amount of air or water~~
24 ~~pollution resulting from the emission of air contaminants or the discharge of sewage and~~
25 ~~industrial wastes or other polluting materials or substances into the outdoor atmosphere or into~~
26 ~~streams, lakes, or rivers, upon condition that the corporation claiming this deduction shall~~
27 ~~furnish to the Secretary a certificate from the Department of Environment and Natural~~
28 ~~Resources or from a local air pollution control program for air cleaning devices located in an~~
29 ~~area where the Environmental Management Commission has certified a local air pollution~~
30 ~~control program pursuant to G.S. 143-215.112 certifying that said Department or local air~~
31 ~~pollution control program has found as a fact that the air cleaning device, waste treatment plant~~
32 ~~or pollution abatement equipment purchased or constructed and installed as above described~~
33 ~~has actually been constructed and installed and that the device, plant or equipment complies~~
34 ~~with the requirements of the Environmental Management Commission or local air pollution~~
35 ~~control program with respect to the devices, plants or equipment, that the device, plant or~~
36 ~~equipment is being effectively operated in accordance with the terms and conditions set forth in~~
37 ~~the permit, certificate of approval, or other document of approval issued by the Environmental~~
38 ~~Management Commission or local air pollution control program and that the primary purpose is~~
39 ~~to reduce air or water pollution resulting from the emission of air contaminants or the discharge~~
40 ~~of sewage and waste and not merely incidental to other purposes and functions. The cost of~~
41 ~~constructing facilities of any private or public utility built for the purpose of providing sewer~~
42 ~~service to residential and outlying areas is treated as deductible for the purposes of this section;~~
43 ~~the deductible liability allowed by this section applies only with respect to pollution abatement~~
44 ~~plants or equipment constructed or installed on or after January 1, 1955.purposes.~~

45 (d1) Credits. — A corporation is allowed a credit against the tax imposed by this section
46 for a taxable year equal to one half of the amount of tax payable during the taxable year under
47 Article 5E of this Chapter. The credit allowed by this subsection may not exceed the amount of
48 tax imposed by this section for the taxable year, reduced by the sum of all other credits allowed
49 against that tax, except tax payments made by or on behalf of the taxpayer.

50 (e) Any corporation which changes its income year, and files a "short period" income
51 tax return pursuant to G.S. 105-130.15 shall file a franchise tax return in accordance with the

1 provisions of this section in the manner and as of the date specified in subsection (a) of this
2 section. Such corporation shall be entitled to deduct from the total franchise tax computed (on
3 an annual basis) on such return the amount of franchise tax previously paid which is applicable
4 to the period subsequent to the beginning of the new income year.

5 (f) The return and tax required by this section are in addition to all other reports
6 required or taxes levied and assessed in this State.

7 (g) Counties, cities and towns shall not levy a franchise tax on corporations taxed under
8 this section."

9 **SECTION 32.15.(d)** G.S. 105-114.1 reads as rewritten:

10 "**§ 105-114.1. Limited liability companies.**

11 ...

12 (b) **Controlled Companies.** – If a corporation or an affiliated group of corporations
13 owns more than fifty percent (50%) of the capital interests in a noncorporate limited liability
14 company, the corporation or group of corporations must include in its three tax bases pursuant
15 to G.S. 105-122 the same percentage of (i) the noncorporate limited liability company's ~~capital~~
16 ~~stock, surplus, and undivided profits; net worth;~~ (ii) fifty-five percent (55%) of the
17 noncorporate limited liability company's appraised ad valorem tax value of property; and (iii)
18 the noncorporate limited liability company's actual investment in tangible property in this State,
19 as appropriate.

20 ...

21 (d) **No Double Inclusion.** – If a corporation is required to include a percentage of a
22 noncorporate limited liability company's assets in its tax bases under this Article pursuant to
23 subsection (b) of this section, its investment in the noncorporate limited liability company is
24 not included in its computation of ~~capital stock~~ net worth base under G.S. 105-122(b).

25"

26 **SECTION 32.15.(e)** G.S. 105-125(b) reads as rewritten:

27 "(b) **Certain Investment Companies.** – A corporation doing business in North Carolina
28 that meets one or more of the following conditions may, in determining its ~~capital stock,~~
29 ~~surplus, and undivided profits base~~ net worth base for franchise tax, deduct the aggregate
30 market value of its investments in the stocks, bonds, debentures, or other securities or
31 evidences of debt of other corporations, partnerships, individuals, municipalities, governmental
32 agencies, or governments:

33 (1) **A regulated investment company.** – A regulated investment company is an
34 entity that qualifies as a regulated investment company under section 851 of
35 the Code.

36 (2) **A REIT, unless the REIT is a captive REIT.** – The terms "REIT" and
37 "captive REIT" have the same meanings as defined in G.S. 105-130.12."

38 **SECTION 32.15.(f)** This section is effective for taxable years beginning on or after
39 January 1, 2017.

41 **INDIVIDUAL INCOME TAX REDUCTIONS AND MODIFICATION OF THE** 42 **ITEMIZED DEDUCTION**

43 **SECTION 32.16.(a)** Effective for taxable years beginning on or after January 1,
44 2016, G.S. 105-153.5(a)(1) reads as rewritten:

45 "**§ 105-153.5. Modifications to adjusted gross income.**

46 (a) **Deduction Amount.** – In calculating North Carolina taxable income, a taxpayer may
47 deduct from adjusted gross income either the standard deduction amount provided in
48 subdivision (1) of this subsection or the itemized deduction amount provided in subdivision (2)
49 of this subsection that the taxpayer claimed under the Code. The deduction amounts are as
50 follows:

(1) Standard deduction amount. – The standard deduction amount is zero for a person who is not eligible for a standard deduction under section 63 of the Code. For all other taxpayers, the standard deduction amount is equal to the amount listed in the table below based on the taxpayer's filing status:

| Filing Status | Standard Deduction |
|----------------------------|-------------------------------------|
| Married, filing jointly | \$15,000 <u>\$17,500</u> |
| Head of Household | 12,000 <u>14,000</u> |
| Single | 7,500 <u>8,750</u> |
| Married, filing separately | 7,500 <u>8,750.</u> " |

SECTION 32.16.(b) Effective for taxable years beginning on or after January 1, 2017, G.S. 105-153.5(a)(1), as amended by subsection (a) of this section, reads as rewritten:

"§ 105-153.5. Modifications to adjusted gross income.

(a) Deduction Amount. – In calculating North Carolina taxable income, a taxpayer may deduct from adjusted gross income either the standard deduction amount provided in subdivision (1) of this subsection or the itemized deduction amount provided in subdivision (2) of this subsection that the taxpayer claimed under the Code. The deduction amounts are as follows:

(1) Standard deduction amount. – The standard deduction amount is zero for a person who is not eligible for a standard deduction under section 63 of the Code. For all other taxpayers, the standard deduction amount is equal to the amount listed in the table below based on the taxpayer's filing status:

| Filing Status | Standard Deduction |
|----------------------------|-------------------------------------|
| Married, filing jointly | \$17,500 <u>\$17,750</u> |
| Head of Household | 14,000 <u>14,200</u> |
| Single | 8,750 <u>8,875</u> |
| Married, filing separately | 8,750 <u>8,875.</u> " |

SECTION 32.16.(c) Effective for taxable years beginning on or after January 1, 2018, G.S. 105-153.5(a)(1), as amended by subsection (b) of this section, reads as rewritten:

"§ 105-153.5. Modifications to adjusted gross income.

(a) Deduction Amount. – In calculating North Carolina taxable income, a taxpayer may deduct from adjusted gross income either the standard deduction amount provided in subdivision (1) of this subsection or the itemized deduction amount provided in subdivision (2) of this subsection that the taxpayer claimed under the Code. The deduction amounts are as follows:

(1) Standard deduction amount. – The standard deduction amount is zero for a person who is not eligible for a standard deduction under section 63 of the Code. For all other taxpayers, the standard deduction amount is equal to the amount listed in the table below based on the taxpayer's filing status:

| Filing Status | Standard Deduction |
|----------------------------|-------------------------------------|
| Married, filing jointly | \$17,750 <u>\$18,000</u> |
| Head of Household | 14,200 <u>14,400</u> |
| Single | 8,875 <u>9,000</u> |
| Married, filing separately | 8,875 <u>9,000.</u> " |

SECTION 32.16.(d) Effective for taxable years beginning on or after January 1, 2019, G.S. 105-153.5(a)(1), as amended by subsection (c) of this section, reads as rewritten:

"§ 105-153.5. Modifications to adjusted gross income.

(a) Deduction Amount. – In calculating North Carolina taxable income, a taxpayer may deduct from adjusted gross income either the standard deduction amount provided in subdivision (1) of this subsection or the itemized deduction amount provided in subdivision (2) of this subsection that the taxpayer claimed under the Code. The deduction amounts are as follows:

(1) Standard deduction amount. – The standard deduction amount is zero for a person who is not eligible for a standard deduction under section 63 of the Code. For all other taxpayers, the standard deduction amount is equal to the amount listed in the table below based on the taxpayer's filing status:

| Filing Status | Standard Deduction |
|----------------------------|--------------------|
| Married, filing jointly | \$18,000\$18,250 |
| Head of Household | 14,40014,600 |
| Single | 9,0009,125 |
| Married, filing separately | 9,0009,125." |

SECTION 32.16.(e) Effective for taxable years beginning on or after January 1, 2020, G.S. 105-153.5(a)(1), as amended by subsection (d) of this section, reads as rewritten:

"§ 105-153.5. Modifications to adjusted gross income.

(a) Deduction Amount. – In calculating North Carolina taxable income, a taxpayer may deduct from adjusted gross income either the standard deduction amount provided in subdivision (1) of this subsection or the itemized deduction amount provided in subdivision (2) of this subsection that the taxpayer claimed under the Code. The deduction amounts are as follows:

(1) Standard deduction amount. – The standard deduction amount is zero for a person who is not eligible for a standard deduction under section 63 of the Code. For all other taxpayers, the standard deduction amount is equal to the amount listed in the table below based on the taxpayer's filing status:

| Filing Status | Standard Deduction |
|----------------------------|--------------------|
| Married, filing jointly | \$18,250\$18,500 |
| Head of Household | 14,60014,800 |
| Single | 9,1259,250 |
| Married, filing separately | 9,1259,250." |

SECTION 32.16.(f) G.S. 105-153.7(a) reads as rewritten:

"§ 105-153.7. Individual income tax imposed.

(a) Tax. – A tax is imposed for each taxable year on the North Carolina taxable income of every individual. The tax shall be levied, collected, and paid annually. The tax is ~~five and seventy five hundredths percent (5.75%)~~ five and five-tenths percent (5.5%) of the taxpayer's North Carolina taxable income."

SECTION 32.16.(g) G.S. 105-153.5(a)(2) reads as rewritten:

"§ 105-153.5. Modifications to adjusted gross income.

(a) Deduction Amount. – In calculating North Carolina taxable income, a taxpayer may deduct from adjusted gross income either the standard deduction amount provided in subdivision (1) of this subsection or the itemized deduction amount provided in subdivision (2) of this subsection that the taxpayer claimed under the Code. The deduction amounts are as follows:

- ...
- (2) Itemized deduction amount. – An amount equal to the ~~sum of the items listed in this subdivision. The amounts allowed under this subdivision are not subject to the overall limitation on itemized deductions under section 68 of the Code;~~ itemized deduction amount claimed under the Code other than any amount deducted under section 164 of the Code as State, local, or foreign income tax or as State or local general sales tax. The
 - a. ~~The amount allowed as a deduction for charitable contributions under section 170 of the Code for that taxable year.~~
 - b. ~~The amount allowed as a deduction for interest paid or accrued during the taxable year under section 163(h) of the Code with respect to any qualified residence plus the amount claimed by the taxpayer as~~

1 a deduction for property taxes paid or accrued on real estate under
2 section 164 of the Code for that taxable year. The
3 amount allowed under this ~~sub-subdivision~~ subdivision may not exceed
4 twenty thousand dollars (\$20,000). For spouses filing as married filing
5 separately or married filing jointly, the total ~~mortgage interest and real estate~~
6 ~~taxes~~ itemized deductions claimed by both spouses combined may not exceed
7 twenty thousand dollars (\$20,000). ~~For spouses filing as married filing~~
8 ~~separately with a joint obligation for mortgage interest and real estate taxes,~~
9 ~~the deduction for these items is allowable to the spouse who actually paid~~
10 ~~them.~~ For spouses filing as married filing separately, if the amount of the
11 mortgage interest and real estate taxes paid itemized deductions claimed by
12 both spouses exceeds twenty thousand dollars (\$20,000), these deductions
13 must be prorated based on the percentage paid claimed by each spouse. ~~For~~
14 ~~joint obligations paid from joint accounts, the proration is based on the~~
15 ~~income reported by each spouse for that taxable year.~~ spouse under the
16 Code."

17 **SECTION 32.16.(h)** G.S. 105-163.2 reads as rewritten:

18 **"§ 105-163.2. Employers must withhold taxes.**

19 ...
20 (b) Withholding Tables. – The manner of withholding and the amount to be withheld
21 shall be determined in accordance with tables and rules adopted by the Secretary. The
22 withholding of wages pursuant to and in accordance with these tables shall be deemed as a
23 matter of law to constitute compliance with the provisions of subsection (a) of this section,
24 notwithstanding any other provisions of this Article. The Secretary shall promulgate tables for
25 computing amounts to be withheld with respect to different rates of wages for different payroll
26 periods applicable to the various combinations of allowances to which an employee may be
27 entitled and taking into account the appropriate standard deduction. The tables may provide for
28 the same amount to be withheld within reasonable salary brackets or ranges so designed as to
29 result in the withholding during a year of approximately the amount of an employee's indicated
30 income tax liability for that year.

31 The withholding allowances provided by these tables and rules shall, as nearly as possible,
32 approximate the amount of the employee's indicated income tax liability for that year based
33 upon all of the following factors:

- 34 (1) An income tax rate equal to the rate set in G.S. 105-153.7 plus one-tenth of
35 one percent (0.1%).
36 (2) ~~the~~ The additions the employee is required to make under Article 4 of this
37 Chapter and the deductions, Chapter.
38 (3) The deductions and credits to which an employee is entitled under Article 4
39 of this Chapter. ~~The Secretary shall promulgate tables for computing~~
40 ~~amounts to be withheld with respect to different rates of wages for different~~
41 ~~payroll periods applicable to the various combinations of allowances to~~
42 ~~which an employee may be entitled and taking into account the appropriate~~
43 ~~standard deduction. The tables may provide for the same amount to be~~
44 ~~withheld within reasonable salary brackets or ranges so designed as to result~~
45 ~~in the withholding during a year of approximately the amount of an~~
46 ~~employee's indicated income tax liability for that year. The withholding of~~
47 ~~wages pursuant to and in accordance with these tables shall be deemed as a~~
48 ~~matter of law to constitute compliance with the provisions of subsection (a)~~
49 ~~of this section, notwithstanding any other provisions of this Article.~~

1 (e) Alternatives to Tables. – If the Secretary determines that use of the withholding
2 tables would be impractical, would impose an unreasonable burden on an employer, or would
3 produce substantially incorrect results, the Secretary may authorize or require an employer to
4 use some other method of determining the amounts to be withheld under this Article. The
5 alternative method authorized by the Secretary must reasonably approximate the predicted
6 income tax liability of the affected ~~employees~~employees based upon the factors provided in
7 subsection (b) of this section. In addition, with the agreement of the employer and employee,
8 the Secretary may authorize an employer to use an alternative method that results in
9 withholding of a greater amount than otherwise required under this section.

10 The Secretary's authorization of an alternative method is discretionary and may be
11 cancelled at any time without advance notice if the Secretary finds that the method is being
12 abused or is not resulting in the withholding of an amount reasonably approximating the
13 predicted income tax liability of the affected employees. The Secretary shall give an employer
14 written notice of any cancellation and the findings upon which the cancellation is based. The
15 cancellation becomes effective upon the employer's receipt of this notice or on the third day
16 after the notice was mailed to the employer, whichever occurs first. If the employer requests a
17 hearing on the cancellation within 30 days after the cancellation, the Secretary shall grant a
18 hearing. After a hearing, the Secretary's findings are conclusive."

19 **SECTION 32.16.(i)** Subsections (f) through (h) of this section are effective for
20 taxable years beginning on or after January 1, 2016. Except as otherwise provided, the
21 remainder of this section is effective when this act becomes law.

22 23 **ARTICLE 5F EXCISE TAX CHANGES**

24 **SECTION 32.17.(a)** G.S. 105-187.51(b) reads as rewritten:

25 **"§ 105-187.51. Tax imposed on mill machinery.**

26 ...
27 (b) Rate. – The tax is ~~one percent (1%) of~~imposed on the sales-purchase price of the
28 machinery, part, or accessory ~~purchased~~accessory. The tax rate is equal to the general rate of
29 tax under G.S. 105-164.4. The maximum tax is ~~eighty dollars (\$80.00)~~five hundred dollars
30 (\$500.00) per article. As used in this section, the term "accessories" does not include
31 electricity."

32 **SECTION 32.17.(b)** G.S. 105-187.51B(b) reads as rewritten:

33 **"§ 105-187.51B. Tax imposed on certain recyclers, research and development companies,**
34 **industrial machinery refurbishing companies, and companies located at ports**
35 **facilities.**

36 ...
37 (b) Rate. – The tax is ~~one percent (1%) of~~imposed on the sales-purchase price of the
38 equipment or other tangible personal property. The tax rate is equal to the general rate of tax
39 under G.S. 105-164.4. The maximum tax is ~~eighty dollars (\$80.00)~~five hundred dollars
40 (\$500.00) per article."

41 **SECTION 32.17.(c)** G.S. 105-187.51D(b) reads as rewritten:

42 **"§ 105-187.51D. Tax imposed on machinery at large manufacturing and distribution**
43 **facility.**

44 ...
45 (b) Tax. – A privilege tax is imposed on a large manufacturing and distribution facility
46 that purchases mill machinery, distribution machinery, or parts or accessories for mill
47 machinery or distribution machinery for storage, use, or consumption in this State. The tax is
48 ~~one percent (1%) of~~imposed on the sales-purchase price of the machinery, part, or accessory
49 ~~purchased~~accessory. The rate of tax is equal to the general rate of tax under G.S. 105-164.4.
50 The maximum tax is ~~eighty dollars (\$80.00)~~five hundred dollars (\$500.00) per article. As used
51 in this section, the term "accessories" does not include electricity."

1 **SECTION 32.17.(d)** This section becomes effective October 1, 2015, and applies
2 to purchases made on or after that date or contracts entered into on or after that date.

3
4 **SALES TAX CHANGES**

5 **SECTION 32.18.(a)** G.S. 105-164.3 reads as rewritten:

6 **"§ 105-164.3. Definitions.**

7 The following definitions apply in this Article:

8 ...

9 (18a) Maintenance service. – To keep tangible personal property in working order,
10 to avoid breakdown, and to prevent unnecessary repairs.

11 ...

12 (33d) Repair service. – To restore or attempt to restore tangible personal property
13 to proper working order or good condition. The term includes replacing or
14 putting together what is torn or broken.

15 "

16 **SECTION 32.18.(b)** G.S. 105-164.4(a) reads as rewritten:

17 **"§ 105-164.4. Tax imposed on retailers.**

18 (a) A privilege tax is imposed on a retailer engaged in business in the State at the
19 percentage rates of the retailer's net taxable sales or gross receipts, listed in this subsection. The
20 general rate of tax is four and three-quarters percent (4.75%). The percentage rates are as
21 follows:

22 (1a) The general rate applies to the sales price of each ~~manufactured home of the~~
23 ~~following items sold~~ at retail, including all accessories attached to ~~the~~
24 ~~manufactured home the item~~ when it is delivered to the ~~purchase~~-purchaser:

25 a. A manufactured home.

26 b. A modular home. The sale of a modular home to a modular
27 homebuilder is considered a retail sale. A person who sells a modular
28 home at retail is allowed a credit against the tax imposed by this
29 subdivision for sales or use tax paid to another state on tangible
30 personal property incorporated in the modular home. The retail sale
31 of a modular home occurs when a modular home manufacturer sells
32 a modular home to a modular homebuilder or directly to the end user
33 of the modular home.

34 c. An aircraft, except that the maximum tax on an aircraft is five
35 thousand dollars (\$5,000) per article.

36 d. A boat, except that the maximum tax on a boat is one thousand five
37 hundred dollars (\$1,500) per article.

38 (1b) ~~The rate of three percent (3%) applies to the sales price of each aircraft or~~
39 ~~boat sold at retail, including all accessories attached to the item when it is~~
40 ~~delivered to the purchaser. The maximum tax is one thousand five hundred~~
41 ~~dollars (\$1,500) per article.~~

42 ...

43 (8) ~~The general rate applies to the sales price of each modular home sold at~~
44 ~~retail, including all accessories attached to the modular home when it is~~
45 ~~delivered to the purchaser. The sale of a modular home to a modular~~
46 ~~homebuilder is considered a retail sale. A person who sells a modular home~~
47 ~~at retail is allowed a credit against the tax imposed by this subdivision for~~
48 ~~sales or use tax paid to another state on tangible personal property~~
49 ~~incorporated in the modular home. The retail sale of a modular home occurs~~
50 ~~when a modular home manufacturer sells a modular home to a modular~~
51 ~~homebuilder or directly to the end user of the modular home.~~

- 1 ...
- 2 (15) The general rate applies to the sales price of or the gross receipts derived
- 3 from repair service and maintenance service.
- 4 (16) The general rate applies to the sales price of or the gross receipts derived
- 5 from grooming, training, boarding, or providing other care for an animal.
- 6 (17) The general rate applies to the sales price of or the gross receipts derived
- 7 from veterinary services.
- 8 (18) The general rate applies to the sales price of or the gross receipts derived
- 9 from advertising services."

10 **SECTION 32.18.(c)** G.S. 105-164.13(49) is repealed.

11 **SECTION 32.18.(d)** G.S. 105-467(a) reads as rewritten:

12 **"§ 105-467. Scope of sales tax.**

13 (a) Sales Tax. – The sales tax that may be imposed under this Article is limited to a tax

14 at the rate of one percent (1%) of the following:

- 15 (1) A retailer's net taxable sales and gross receipts that are subject to the general
- 16 rate of sales tax imposed by the State under G.S. 105-164.4 except the tax
- 17 does not apply to the sales price of ~~a manufactured home or a modular~~
- 18 ~~home~~ an item taxed under G.S. 105-164.4(a)(1a).

19"

20 **SECTION 32.18.(e)** G.S. 105-237.1(a)(6) reads as rewritten:

21 **"§ 105-237.1. Compromise of liability.**

22 (a) Authority. – The Secretary may compromise a taxpayer's liability for a tax that is

23 collectible under G.S. 105-241.22 when the Secretary determines that the compromise is in the

24 best interest of the State and makes one or more of the following findings:

25 ...

- 26 (6) The taxpayer is a retailer or a person under Article 5 of this Chapter; the
- 27 assessment is for sales or use tax the retailer failed to collect or the person
- 28 failed to pay on an item taxable under G.S. 105-164.4(a)(10) ~~and (a)(11),~~
- 29 through (a)(18), and the retailer or person made a good-faith effort to
- 30 comply with the sales and use tax laws. This subdivision expires for
- 31 assessments issued after July 1, 2020."

32 **SECTION 32.18.(f)** The Secretary of Revenue is directed to repeal the following

33 administrative rules: 17 NCAC 07B .1002, 17 NCAC 07B .1003, and 17 NCAC 07B .1901. A

34 repair part historically purchased and taxed in accordance with these administrative rules

35 should be purchased for the purpose of resale.

36 **SECTION 32.18.(g)** G.S. 105-164.4I(b) is amended by adding a new subdivision

37 to read:

38 "(b) Exemptions. – The tax imposed by this section does not apply to the sales price of

39 or the gross receipts derived from a service contract applicable to any of the following items:

- 40 (1) An item exempt from tax under this Article, other than a motor vehicle
- 41 exempt from tax under G.S. 105-164.13(32).
- 42 (2) A transmission, distribution, or other network asset contained on
- 43 utility-owned land, right-of-way, or easement.
- 44 (3) An item purchased by a professional motorsports racing team for which the
- 45 team may receive a sales tax refund under G.S. 105-164.14A(5).
- 46 (4) An item subject to tax under Article 5F of Chapter 105 of the General
- 47 Statutes.
- 48 (5) A qualifying aircraft or qualifying jet engine if the service contract is sold by
- 49 the manufacturer of the aircraft or jet engine or a related member of the
- 50 manufacturer within 90 days of the date the aircraft or engine is purchased.
- 51 A qualifying aircraft is an aircraft with a maximum take-off weight of more

1 than 9,000 pounds but not in excess of 15,000 pounds. A qualifying jet
2 engine is an engine certified pursuant to Part 33 of Title 14 of the Code of
3 Federal Regulations."

4 **SECTION 32.18.(h)** Effective July 1, 2015, and applicable to refund applications
5 submitted for purchases made on or after that date, G.S. 105-164.14(b) reads as rewritten:

6 "(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed ~~a semiannual~~
7 an annual refund of sales and use taxes paid by it under this Article on direct purchases of
8 tangible personal property and services for use in carrying on the work of the nonprofit entity.
9 The aggregate amount of purchases for which an entity may receive a refund under this
10 subsection for a 12-month period beginning July 1 and ending June 30 may not exceed six
11 hundred sixty-six million six hundred sixty-six thousand six hundred sixty-seven dollars
12 (\$666,666,667). Sales and use tax liability indirectly incurred by a nonprofit entity through
13 reimbursement to an authorized person of the entity for the purchase of tangible personal
14 property and services for use in carrying on the work of the nonprofit entity is considered a
15 direct purchase by the entity. Sales and use tax liability indirectly incurred by a nonprofit entity
16 on building materials, supplies, fixtures, and equipment that become a part of or annexed to any
17 building or structure that is owned or leased by the nonprofit entity and is being erected,
18 altered, or repaired for use by the nonprofit entity for carrying on its nonprofit activities is
19 considered a sales or use tax liability incurred on direct purchases by the nonprofit entity. The
20 refund allowed under this subsection does not apply to purchases of electricity,
21 telecommunications service, ancillary service, piped natural gas, video programming, or a
22 prepaid meal plan. A request for a refund must be in writing and must include any information
23 and documentation required by the Secretary. A request for a refund ~~for the first six months of~~
24 a calendar year is due the following October 15; a request for a refund for the second six
25 months of a calendar year is due the following April 15. The aggregate annual refund amount
26 allowed an entity under this subsection for a fiscal year may not exceed thirty one million
27 seven hundred thousand dollars (\$31,700,000); for a 12-month period ending June 30 is due the
28 following October 15.

29 The refunds allowed under this subsection do not apply to an entity that is owned and
30 controlled by the United States or to an entity that is owned or controlled by the State and is not
31 listed in this subsection. A hospital that is not listed in this subsection is allowed ~~a semiannual~~
32 an annual refund of sales and use taxes paid by it on over-the-counter drugs purchased for use
33 in carrying out its work. The following nonprofit entities are allowed a refund under this
34 subsection:

35 "...."

36 **SECTION 32.18.(i)** Effective July 1, 2015, and applicable to refund applications
37 submitted for purchases made on or after that date, G.S. 105-467(b) reads as rewritten:

38 "(b) Exemptions and Refunds. – The State exemptions and exclusions contained in
39 G.S. 105-164.13 apply to the local sales and use tax authorized to be levied and imposed under
40 this Article. The State refund provisions contained in G.S. 105-164.14 through
41 G.S. 105-164.14B apply to the local sales and use tax authorized to be levied and imposed
42 under this Article. A refund of an excessive or erroneous State sales tax collection allowed
43 under G.S. 105-164.11 and a refund of State sales tax paid on a rescinded sale or cancelled
44 service contract under G.S. 105-164.11A apply to the local sales and use tax authorized to be
45 levied and imposed under this Article. The aggregate annual local amount of purchases for
46 which an entity may receive a refund amount of local sales and use tax may not exceed the
47 amount allowed an entity under G.S. 105-164.14(b) for a fiscal year may not exceed thirteen
48 million three hundred thousand dollars (\$13,300,000); G.S. 105-164.14(b). If the purchases for
49 which a refund application is made exceed the amount of purchases for which an entity may
50 receive a refund, and those purchases are made in more than one county, the purchases eligible

1 for the refund in each county is proportionate to the amount of purchases sourced to that county
2 relative to the total purchases made in all counties.

3 Except as provided in this subsection, a taxing county may not allow an exemption,
4 exclusion, or refund that is not allowed under the State sales and use tax. A local school
5 administrative unit and a joint agency created by interlocal agreement among local school
6 administrative units pursuant to G.S. 160A-462 to jointly purchase food service-related
7 materials, supplies, and equipment on their behalf is allowed an annual refund of sales and use
8 taxes paid by it under this Article on direct purchases of tangible personal property and
9 services. Sales and use tax liability indirectly incurred by the entity on building materials,
10 supplies, fixtures, and equipment that become a part of or annexed to any building or structure
11 that is owned or leased by the entity and is being erected, altered, or repaired for use by the
12 entity is considered a sales or use tax liability incurred on direct purchases by the entity for the
13 purpose of this subsection. The refund allowed under this subsection does not apply to
14 purchases of electricity, telecommunications service, ancillary service, piped natural gas, video
15 programming, or a prepaid meal plan. A request for a refund is due in the same time and
16 manner as provided in G.S. 105-164.14(c). Refunds applied for more than three years after the
17 due date are barred."

18 **SECTION 32.18.(j)** Effective July 1, 2016, and applicable to refund applications
19 submitted for purchases made on or after that date, G.S. 105-164.14(b), as amended by
20 subsection (h) of this section, reads as rewritten:

21 "(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed an annual
22 refund of sales and use taxes paid by it under this Article on direct purchases of tangible
23 personal property and services for use in carrying on the work of the nonprofit entity. The
24 aggregate amount of purchases for which an entity may receive a refund under this subsection
25 for a fiscal year may not exceed ~~six hundred sixty six million six hundred sixty six thousand~~
26 ~~six hundred sixty seven dollars (\$666,666,667)~~ one hundred fifty million dollars
27 (\$150,000,000) in a fiscal year. Sales and use tax liability indirectly incurred by a nonprofit
28 entity through reimbursement to an authorized person of the entity for the purchase of tangible
29 personal property and services for use in carrying on the work of the nonprofit entity is
30 considered a direct purchase by the entity. Sales and use tax liability indirectly incurred by a
31 nonprofit entity on building materials, supplies, fixtures, and equipment that become a part of
32 or annexed to any building or structure that is owned or leased by the nonprofit entity and is
33 being erected, altered, or repaired for use by the nonprofit entity for carrying on its nonprofit
34 activities is considered a sales or use tax liability incurred on direct purchases by the nonprofit
35 entity. The refund allowed under this subsection does not apply to purchases of electricity,
36 telecommunications service, ancillary service, piped natural gas, video programming, or a
37 prepaid meal plan. A request for a refund must be in writing and must include any information
38 and documentation required by the Secretary. A request for a refund for the preceding fiscal
39 year is due the following October 15.

40 The refunds allowed under this subsection do not apply to an entity that is owned and
41 controlled by the United States or to an entity that is owned or controlled by the State and is not
42 listed in this subsection. A hospital that is not listed in this subsection is allowed an annual
43 refund of sales and use taxes paid by it on over-the-counter drugs purchased for use in carrying
44 out its work. The following nonprofit entities are allowed a refund under this subsection:

45 "...."

46 **SECTION 32.18.(k)** Effective July 1, 2017, and applicable to refund applications
47 submitted for purchases made on or after that date, G.S. 105-164.14(b), as amended by
48 subsection (j) of this section, reads as rewritten:

49 "(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed an annual
50 refund of sales and use taxes paid by it under this Article on direct purchases of tangible
51 personal property and services for use in carrying on the work of the nonprofit entity. The

1 aggregate amount of purchases for which an entity may receive a refund under this subsection
2 for a fiscal year may not exceed ~~one hundred fifty million dollars (\$150,000,000)~~ one hundred
3 twenty million dollars (\$120,000,000) in a fiscal year. Sales and use tax liability indirectly
4 incurred by a nonprofit entity through reimbursement to an authorized person of the entity for
5 the purchase of tangible personal property and services for use in carrying on the work of the
6 nonprofit entity is considered a direct purchase by the entity. Sales and use tax liability
7 indirectly incurred by a nonprofit entity on building materials, supplies, fixtures, and equipment
8 that become a part of or annexed to any building or structure that is owned or leased by the
9 nonprofit entity and is being erected, altered, or repaired for use by the nonprofit entity for
10 carrying on its nonprofit activities is considered a sales or use tax liability incurred on direct
11 purchases by the nonprofit entity. The refund allowed under this subsection does not apply to
12 purchases of electricity, telecommunications service, ancillary service, piped natural gas, video
13 programming, or a prepaid meal plan. A request for a refund must be in writing and must
14 include any information and documentation required by the Secretary. A request for a refund
15 for the preceding fiscal year is due the following October 15.

16 The refunds allowed under this subsection do not apply to an entity that is owned and
17 controlled by the United States or to an entity that is owned or controlled by the State and is not
18 listed in this subsection. A hospital that is not listed in this subsection is allowed an annual
19 refund of sales and use taxes paid by it on over-the-counter drugs purchased for use in carrying
20 out its work. The following nonprofit entities are allowed a refund under this subsection:

21"

22 **SECTION 32.18.(l)** Effective July 1, 2018, and applicable to refund applications
23 submitted for purchases made on or after that date, G.S. 105-164.14(b), as amended by
24 subsection (k) of this section, reads as rewritten:

25 "(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed an annual
26 refund of sales and use taxes paid by it under this Article on direct purchases of tangible
27 personal property and services for use in carrying on the work of the nonprofit entity. The
28 aggregate amount of purchases for which an entity may receive a refund under this subsection
29 for a fiscal year may not exceed ~~one hundred twenty million dollars (\$120,000,000)~~ ninety
30 million dollars (\$90,000,000) in a fiscal year. Sales and use tax liability indirectly incurred by a
31 nonprofit entity through reimbursement to an authorized person of the entity for the purchase of
32 tangible personal property and services for use in carrying on the work of the nonprofit entity is
33 considered a direct purchase by the entity. Sales and use tax liability indirectly incurred by a
34 nonprofit entity on building materials, supplies, fixtures, and equipment that become a part of
35 or annexed to any building or structure that is owned or leased by the nonprofit entity and is
36 being erected, altered, or repaired for use by the nonprofit entity for carrying on its nonprofit
37 activities is considered a sales or use tax liability incurred on direct purchases by the nonprofit
38 entity. The refund allowed under this subsection does not apply to purchases of electricity,
39 telecommunications service, ancillary service, piped natural gas, video programming, or a
40 prepaid meal plan. A request for a refund must be in writing and must include any information
41 and documentation required by the Secretary. A request for a refund for the preceding fiscal
42 year is due the following October 15.

43 The refunds allowed under this subsection do not apply to an entity that is owned and
44 controlled by the United States or to an entity that is owned or controlled by the State and is not
45 listed in this subsection. A hospital that is not listed in this subsection is allowed an annual
46 refund of sales and use taxes paid by it on over-the-counter drugs purchased for use in carrying
47 out its work. The following nonprofit entities are allowed a refund under this subsection:

48"

49 **SECTION 32.18.(m)** Effective July 1, 2019, and applicable to refund applications
50 submitted for purchases made on or after that date, G.S. 105-164.14(b), as amended by
51 subsection (l) of this section, reads as rewritten:

1 "(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed an annual
2 refund of sales and use taxes paid by it under this Article on direct purchases of tangible
3 personal property and services for use in carrying on the work of the nonprofit entity. The
4 aggregate amount of purchases for which an entity may receive a refund under this subsection
5 for a fiscal year may not exceed ~~ninety million dollars (\$90,000,000)~~ sixty million dollars
6 (\$60,000,000) in a fiscal year. Sales and use tax liability indirectly incurred by a nonprofit
7 entity through reimbursement to an authorized person of the entity for the purchase of tangible
8 personal property and services for use in carrying on the work of the nonprofit entity is
9 considered a direct purchase by the entity. Sales and use tax liability indirectly incurred by a
10 nonprofit entity on building materials, supplies, fixtures, and equipment that become a part of
11 or annexed to any building or structure that is owned or leased by the nonprofit entity and is
12 being erected, altered, or repaired for use by the nonprofit entity for carrying on its nonprofit
13 activities is considered a sales or use tax liability incurred on direct purchases by the nonprofit
14 entity. The refund allowed under this subsection does not apply to purchases of electricity,
15 telecommunications service, ancillary service, piped natural gas, video programming, or a
16 prepaid meal plan. A request for a refund must be in writing and must include any information
17 and documentation required by the Secretary. A request for a refund for the preceding fiscal
18 year is due the following October 15.

19 The refunds allowed under this subsection do not apply to an entity that is owned and
20 controlled by the United States or to an entity that is owned or controlled by the State and is not
21 listed in this subsection. A hospital that is not listed in this subsection is allowed an annual
22 refund of sales and use taxes paid by it on over-the-counter drugs purchased for use in carrying
23 out its work. The following nonprofit entities are allowed a refund under this subsection:

24 "

25 **SECTION 32.18.(n)** Effective July 1, 2020, and applicable to refund applications
26 submitted for purchases made on or after that date, G.S. 105-164.14(b), as amended by
27 subsection (m) of this section, reads as rewritten:

28 "(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed an annual
29 refund of sales and use taxes paid by it under this Article on direct purchases of tangible
30 personal property and services for use in carrying on the work of the nonprofit entity. The
31 aggregate amount of purchases for which an entity may receive a refund under this subsection
32 for a fiscal year may not exceed ~~sixty million dollars (\$60,000,000)~~ fifteen million dollars
33 (\$15,000,000) in a fiscal year. Sales and use tax liability indirectly incurred by a nonprofit
34 entity through reimbursement to an authorized person of the entity for the purchase of tangible
35 personal property and services for use in carrying on the work of the nonprofit entity is
36 considered a direct purchase by the entity. Sales and use tax liability indirectly incurred by a
37 nonprofit entity on building materials, supplies, fixtures, and equipment that become a part of
38 or annexed to any building or structure that is owned or leased by the nonprofit entity and is
39 being erected, altered, or repaired for use by the nonprofit entity for carrying on its nonprofit
40 activities is considered a sales or use tax liability incurred on direct purchases by the nonprofit
41 entity. The refund allowed under this subsection does not apply to purchases of electricity,
42 telecommunications service, ancillary service, piped natural gas, video programming, or a
43 prepaid meal plan. A request for a refund must be in writing and must include any information
44 and documentation required by the Secretary. A request for a refund for the preceding fiscal
45 year is due the following October 15.

46 The refunds allowed under this subsection do not apply to an entity that is owned and
47 controlled by the United States or to an entity that is owned or controlled by the State and is not
48 listed in this subsection. A hospital that is not listed in this subsection is allowed an annual
49 refund of sales and use taxes paid by it on over-the-counter drugs purchased for use in carrying
50 out its work. The following nonprofit entities are allowed a refund under this subsection:

51 "

1 **SECTION 32.18.(o)** Subsections (a) through (d) and subsections (e) and (f) of this
2 section become effective October 1, 2015, and apply to sales made on or after that date,
3 services provided on or after that date, or contracts entered into on or after that date. Except as
4 otherwise provided, this section is effective when it becomes law.

5
6 **FAIR DISTRIBUTION OF SALES TAX REVENUE TO LOCAL GOVERNMENTS**

7 **SECTION 32.19.(a)** Sec. 9 of Chapter 1096 of the 1967 Session Laws, as
8 amended, reads as rewritten:

9 "Sec. 9. Distribution. The Secretary of Revenue must ~~divide~~allocate the net proceeds of the
10 tax collected under this division on items other than food in accordance with G.S. 105-472 in
11 the First One-Cent (1¢) Local Government Sales and Use Tax Act, Article 39 of Chapter 105 of
12 the General Statutes. The Secretary must divide the amount allocated to Mecklenburg County
13 and its municipalities in accordance with the ad valorem distribution method described in
14 G.S. 105-472(b)(2). The Secretary of Revenue must distribute the taxes levied by Mecklenburg
15 County on food to Mecklenburg County and the municipalities within Mecklenburg County in
16 accordance with G.S. 105-469(a). This amount shall be divided between the county and its
17 municipalities in accordance with the ad valorem distribution method described in
18 G.S. 105-472(b)(2).

19 The Secretary of Revenue must reduce the amount distributable to Mecklenburg County
20 under this section by the amount set in G.S. 105-522. This reduction does not affect the amount
21 allocated to municipalities under this section."

22 **SECTION 32.19.(b)** G.S. 105-469(a) reads as rewritten:

23 "(a) The Secretary shall collect and administer a tax levied by a county pursuant to this
24 Article. As directed by G.S. 105-164.13B, taxes levied by a county on food are administered as
25 if they were levied by the State under Article 5 of this Chapter. The Secretary must, on a
26 monthly basis, distribute local taxes levied on food to the taxing counties in accordance with
27 G.S. 105-472. The Secretary must include the amount allocated under this subsection in the
28 local distribution as follows:

- 29 (1) ~~The Secretary must allocate one-half of the net proceeds on a per capita~~
30 ~~basis according to the most recent annual population estimates certified to~~
31 ~~the Secretary by the State Budget Officer. The Secretary must then adjust the~~
32 ~~amount allocated to each county as provided in G.S. 105-486(b). The~~
33 ~~Secretary must include one-half of the amount allocated under this~~
34 ~~subdivision-subsection in the distribution made under Article 40 of this~~
35 ~~Chapter and must include the remaining one-half in the distribution made~~
36 ~~under Article 42 of this Chapter. Article 39 of this Chapter and under Chapter~~
37 ~~1096 of the 1967 Session Laws.~~
38 (2) ~~The Secretary must allocate the remaining net proceeds proportionately to~~
39 ~~each taxing county based upon the amount of sales tax on food collected in~~
40 ~~the taxing county in the 1997-1998 fiscal year under Article 39 of this~~
41 ~~Chapter or under Chapter 1096 of the 1967 Session Laws relative to the total~~
42 ~~amount of sales tax on food collected in all taxing counties in the 1997-1998~~
43 ~~fiscal year under Article 39 of this Chapter and under Chapter 1096 of the~~
44 ~~1967 Session Laws. The Secretary must include one-quarter of the amount~~
45 ~~allocated under this subdivision-subsection in the distribution made under~~
46 ~~Article 39 Article 40 of this Chapter.~~
47 (3) The Secretary must include one-quarter of the amount allocated under this
48 subsection in the distribution made under Article 42 of this Chapter."

49 **SECTION 32.19.(c)** G.S. 105-472(a) reads as rewritten:

50 "(a) County Allocation. – The Secretary shall, on a monthly basis, allocate the net
51 proceeds of the tax collected under this Article to each taxing county ~~for which the Secretary~~

1 collects the tax the net proceeds of the tax collected in that county under this Article. as
 2 provided in this subsection. For the purpose of this section, "net proceeds" means the gross
 3 proceeds of the tax collected in each county under this Article less taxes refunded, the cost to
 4 the State of collecting and administering the tax in the county as determined by the Secretary,
 5 and other deductions that may be charged to the county. For the percentage allocation made on
 6 a point of collection basis, the Secretary must allocate the net proceeds of the tax collected
 7 under this Article in that county. If the Secretary collects local sales or use taxes in a month and
 8 the taxes cannot be identified as being attributable to a particular taxing county, the Secretary
 9 shall allocate the taxes among the taxing counties in proportion to the amount of taxes collected
 10 in each county under this Article during that month and shall include them in the monthly
 11 distribution. Amounts collected by electronic funds transfer payments are included in the
 12 distribution for the month in which the return that applies to the payment is received. For the
 13 percentage allocation made on a per capita basis, the Secretary must allocate the net proceeds
 14 of the tax collected under this Article to the taxing counties according to the most recent annual
 15 population estimates certified to the Secretary by the State Budget Office.

16 The net proceeds are allocated as follows:

| 17 <u>Distribution for Net Proceeds</u> | 18 <u>Per Capita</u> | 19 <u>Point of Collection</u> |
|---|----------------------|-------------------------------|
| 20 <u>Collected in Fiscal Year</u> | | |
| 21 2016-2017 | 40% | 60% |
| 22 2017-2018 | 55% | 45% |
| 23 2018-2019 | 70% | 30% |
| 24 2019-2020 and thereafter | 80% | 20%." |

25 SECTION 32.19.(d) G.S. 105-486 reads as rewritten:

26 "§ 105-486. Distribution of additional taxes.

27 (a) County Allocation. – The Secretary shall, on a monthly basis, allocate the net
 28 proceeds of the additional one-half percent (1/2%) sales and use taxes levied under this Article
 29 to the taxing counties on a per capita basis according to the most recent annual population
 30 estimates certified to the Secretary by the State Budget Officer. in accordance with
 31 G.S. 105-472.

32 (b) Adjustment. — The Secretary shall then adjust the amount allocated to each county
 33 under subsection (a) by multiplying the amount by the appropriate adjustment factor set out in
 34 the table below. If, after applying the adjustment factors, the resulting total of the amounts
 35 allocated is greater or lesser than the net proceeds to be distributed, the amount allocated to
 36 each county shall be proportionally adjusted to eliminate the excess or shortage.

| 37 County | 38 Adjustment Factor |
|--|-----------------------------|
| 39 Dare | 1.49 |
| 40 Brunswick | 1.17 |
| 41 Orange | 1.15 |
| 42 Carteret and Durham | 1.14 |
| 43 Avery | 1.12 |
| 44 Moore | 1.11 |
| 45 Transylvania | 1.10 |
| 46 Chowan, McDowell, and Richmond | 1.09 |
| 47 Pitt and New Hanover | 1.07 |
| 48 Beaufort, Perquimans, Buncombe, and Watauga | 1.06 |
| 49 Cabarrus, Jackson, and Surry | 1.05 |
| 50 Alleghany, Bladen, Robeson, Washington, Craven, Henderson, Onslow, and Vance | 1.04 |
| 51 Gaston, Granville, and Martin | 1.03 |
| Alamance, Burke, Caldwell, Chatham, Duplin, Edgecombe, Haywood, Swain, and Wilkes | 1.02 |

| | | |
|----|---|------|
| 1 | Hertford, Union, Stokes, Yancey, Halifax, Rockingham, and | 1.01 |
| 2 | Cleveland | |
| 3 | Alexander, Anson, Johnston, Northampton, Pasquotank, Person, | 1.00 |
| 4 | Polk, and Yadkin | |
| 5 | Catawba, Harnett, Iredell, Pamlico, Pender, Randolph, Stanly, and | 0.99 |
| 6 | Tyrrell | |
| 7 | Cherokee, Cumberland, Davidson, Graham, Hyde, Macon, | 0.98 |
| 8 | Rutherford, Scotland, and Wilson | |
| 9 | Ashe, Bertie, Franklin, Hoke, Lincoln, Montgomery, and Warren | 0.97 |
| 10 | Wayne, Clay, Madison, Sampson, Wake, Lee, and Forsyth | 0.96 |
| 11 | Caswell, Gates, Mitchell, and Greene | 0.95 |
| 12 | Currituck and Guilford | 0.94 |
| 13 | Davie and Nash | 0.93 |
| 14 | Rowan and Camden | 0.92 |
| 15 | Jones | 0.90 |
| 16 | Mecklenburg | 0.89 |
| 17 | Lenoir | 0.88 |
| 18 | Columbus | 0.81 |

19 (c) Distribution Between Counties and Cities. – The amount allocated to each taxing
 20 county shall then be divided among the county and its municipalities in accordance with the
 21 method by which the one percent (1%) sales and use taxes levied in that county pursuant to
 22 Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws are distributed.

23 (d) Limitation. – No municipality may receive any funds under this section if it was
 24 incorporated with an effective date of on or after January 1, 2000, and is disqualified from
 25 receiving funds under G.S. 136-41.2. No municipality may receive any funds under this
 26 section, incorporated with an effective date on or after January 1, 2000, unless a majority of the
 27 mileage of its streets are open to the public. The previous sentence becomes effective with
 28 respect to distribution of funds on or after July 1, 1999."

29 **SECTION 32.19.(e)** G.S. 105-501(a) reads as rewritten:

30 "(a) Method. – The Secretary must, on a monthly basis, allocate to ~~each taxing county~~
 31 the net proceeds of the additional one-half percent (1/2%) sales and use taxes collected in that
 32 county under this Article. ~~If the Secretary collects taxes under this Article in a month and the~~
 33 ~~taxes cannot be identified as being attributable to a particular taxing county, the Secretary must~~
 34 ~~allocate the net proceeds of these taxes among the taxing counties in proportion to the amount~~
 35 ~~of taxes collected in each county under this Article in that month. Article in accordance with~~
 36 G.S. 105-472. The Secretary must divide and distribute the funds allocated to a taxing county
 37 each month under this section between the county and the municipalities located in the county
 38 in accordance with the method by which the one percent (1%) sales and use taxes levied in that
 39 county pursuant to Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws are
 40 distributed. No municipality may receive any funds under this section if it was incorporated
 41 with an effective date of on or after January 1, 2000, and is disqualified from receiving funds
 42 under G.S. 136-41.2. No municipality may receive any funds under this section, incorporated
 43 with an effective date on or after January 1, 2000, unless a majority of the mileage of its streets
 44 are open to the public."

45 **SECTION 32.19.(f)** G.S. 105-522 reads as rewritten:

46 "**§ 105-522. City hold harmless for repealed local taxes.**

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

48 (1) Amount of sales and use tax revenue allocated under G.S. 105-472 or
 49 Chapter 1096 of the 1967 Session Laws. – An allocation to each taxing
 50 county of the net proceeds of the tax collected in that county under Article
 51 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws. This

- 1 definition represents an allocation based on one hundred percent (100%)
2 point of collection.
- 3 (2) Amount of sales and use tax revenue allocated under G.S. 105-486. – An
4 allocation of the net proceeds of the tax collected under Article 40 of this
5 Chapter to the taxing counties on a per capita basis. This definition
6 represents an allocation based on one hundred percent (100%) per capita.
- 7 ~~(1)~~(3) Eligible municipality. – A municipality that was incorporated on or before
8 October 1, 2008, and receives a distribution of sales and use taxes under
9 G.S. 105-472.
- 10 ~~(2)~~(4) Hold harmless amount. – The sum of the following amounts allocated for
11 distribution to a municipality for a month:
12 a. The amount of sales and use tax revenue allocated under
13 G.S. 105-486. This calculation determines the effect of repealing a
14 one-half percent (1/2%) sales and use tax distributed on a per capita
15 basis.
16 b. An amount determined by subtracting twenty-five percent (25%) of
17 the amount of sales and use tax revenue allocated under
18 G.S. 105-472 or Chapter 1096 of the 1967 Session Laws from fifty
19 percent (50%) of the amount of sales and use tax revenue allocated
20 under G.S. 105-486. This calculation determines the effect of
21 distributing a one-quarter percent (.25%) tax on the basis of point of
22 origin instead of on a per capita basis.
- 23 (5) Net proceeds. – Same meaning as defined in G.S. 105-472.
- 24 (b) Requirement. – A county is required to hold the eligible municipalities in the county
25 harmless from the repeal of the local sales and use taxes formerly imposed under this Article.
26 The Secretary must add an eligible municipality's hold harmless amount to the amount
27 distributed to the municipality under this Subchapter. To obtain the revenue for the hold
28 harmless distribution, the Secretary must reduce each county's monthly allocation under
29 G.S. 105-472(b) or under Chapter 1096 of the 1967 Session Laws by the hold harmless
30 amounts for the municipalities in that county."
- 31 **SECTION 32.19.(g)** G.S. 105-523(b) reads as rewritten:
- 32 "(b) Definitions. – The following definitions apply in this section:
- 33 (1) Amount of sales and use tax revenue allocated under G.S. 105-472 or
34 Chapter 1096 of the 1967 Session Laws. – An allocation to each taxing
35 county of the net proceeds of the tax collected in that county under Article
36 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws. This
37 definition represents an allocation based on one hundred percent (100%)
38 point of collection.
- 39 (2) Amount of sales and use tax revenue allocated under G.S. 105-486. – An
40 allocation of the net proceeds of the tax collected under Article 40 of this
41 Chapter to the taxing counties on a per capita basis. This definition
42 represents an allocation based on one hundred percent (100%) per capita.
- 43 ~~(1)~~(3) City hold harmless amount. – The hold harmless amount determined under
44 G.S. 105-522 for the eligible municipalities in a county.
- 45 ~~(2)~~(4) **(Effective July 1, 2016 until July 1, 2017)** Hold harmless threshold. – The
46 amount of a county's Medicaid service costs and Medicare Part D clawback
47 payments assumed by the State under G.S. 108A-54 for the fiscal year, less
48 one hundred twenty-five thousand dollars (\$125,000). A county's Medicaid
49 service costs for fiscal years 2008-2009, 2009-2010, and 2010-2011 are
50 determined without regard to the changes made to the Federal Medical

1 Assistance Percentage by section 5001 of the American Recovery and
2 Reinvestment Act of 2009.

3 (5) Net proceeds. – Same meaning as defined in G.S. 105-472.

4 ~~(3)~~(6) Repealed sales tax amount. – The sum of the following amounts allocated
5 for distribution to a county for a month:

6 a. The amount of sales and use tax revenue allocated under G.S.
7 105-486. This calculation determines the effect of repealing a
8 one-half percent (1/2%) sales and use tax distributed on a per capita
9 basis.

10 b. An amount determined by subtracting twenty-five percent (25%) of
11 the amount of sales and use tax revenue allocated under G.S.
12 105-472 or Chapter 1096 of the 1967 Session Laws from fifty
13 percent (50%) of the amount of sales and use tax revenue allocated
14 under G.S. 105-486. This calculation determines the effect of
15 distributing a one-quarter percent (.25%) tax on the basis of point of
16 origin instead of on a per capita basis.";

17 **SECTION 32.19.(h)** Except as otherwise provided, this section becomes effective
18 July 1, 2016, and applies to sales tax revenues collected on or after that date and distributed to
19 counties and cities on or after September 1, 2016.

20 LOCAL SALES TAX OPTIONS

21 **SECTION 32.20.(a)** Subchapter VIII of Chapter 105 of the General Statutes is
22 amended by adding a new Article to read:

23 "Article 43A.

24 "County Sales and Use Tax for Public Education.

25 **"§ 105-513.1. Short title; purpose.**

26 This Article is the County Sales and Use Tax for Public Education and is intended to give
27 the counties of this State an opportunity to obtain an additional source of revenue with which to
28 finance their public education needs.

29 **"§ 105-513.2. Levy.**

30 (a) Rate. – The maximum rate of local sales and use tax that may be levied under this
31 Article is one-half percent (1/2%).

32 (b) Authority. – A board of county commissioners may, by resolution and after 10 days'
33 public notice, levy a local sales and use tax under this Article if all of the conditions listed in
34 this subsection are met. The tax rate is the rate specified in the ballot plus any other State and
35 local sales and use taxes levied pursuant to law. The conditions are:

36 (1) The tax is approved by the majority of those voting in a referendum held
37 pursuant to this Article.

38 (2) No other ballot question concerning the levy of a local sales and use tax
39 authorized under Article 43 or Article 46 of this Chapter may be presented in
40 the same referendum.

41 (3) If levied, the tax would not result in a total local sales and use tax rate in the
42 county in excess of two and one-half percent (2 1/2%).

43 (c) Referendum. – The board of commissioners of a county may direct the county board
44 of elections to conduct an advisory referendum on the question of whether to levy a local sales
45 and use tax in the county at a rate of one-quarter percent (1/4%). The election shall be held in
46 accordance with the procedures of G.S. 163-287.

47 (d) Ballot Question. – The form of the question to be presented on a ballot for a special
48 election concerning the levy of the tax authorized by this Article shall be:

49 [] FOR [] AGAINST
50

1 Local sales and use tax at the rate of one-quarter percent (1/4%) in addition to the
2 current local sales and use taxes, to be used only for public education."

3 (e) One-Half Cent (1/2%) Transit-Authorized Counties. – As of April 1, 2013, Durham
4 County and Orange County have levied a local sales and use tax at the rate of two and
5 three-quarters percent (2 3/4%). Notwithstanding subsection (a) of this section, the local sales
6 and use tax rate in these counties may exceed two and one-half percent (2 1/2%) if all of the
7 conditions listed in this subsection are met. In no event may the local sales and use tax rate in
8 these counties exceed two and three-quarters percent (2 3/4%). The conditions are:

9 (1) The county levies a tax authorized under Part 4 of Article 43 of this Chapter.

10 (2) The county conducted one or more advisory referendums on or before
11 January 1, 2014, in which a majority of the voters approved the levy of a
12 local sales and use tax at the rate of one-quarter percent (1/4%) under this
13 Article.

14 (f) Reinstatement of Cap. – If the levy of a tax under Article 43 or Article 46 of this
15 Chapter is repealed and the repeal results in the local sales and use tax rate falling below two
16 and three-quarters percent (2 3/4%) in a county named in subsection (e) of this section, the
17 county may not enact a local sales and use tax under this Subchapter that results in a county
18 local sales and use tax rate that exceeds two and one-half percent (2 1/2%).

19 **"§ 105-513.3. Administration.**

20 Except as provided in this Article, the adoption, levy, collection, administration, and repeal
21 of these additional taxes must be in accordance with Article 39 of this Chapter. In applying the
22 provisions of Article 39 of this Chapter to this Article, references to "this Article" mean Article
23 43A of Chapter 105 of the General Statutes. G.S. 105-468.1 is an administrative provision that
24 applies to this Article. A tax levied under this Article does not apply to the sales price of food
25 that is exempt from tax pursuant to G.S. 105-164.13B or to the sales price of a bundled
26 transaction taxable pursuant to G.S. 105-467(a)(5a). The Secretary shall not divide the amount
27 allocated to a county between the county and the municipalities within the county.

28 **"§ 105-513.4. Use.**

29 A county may use the proceeds of a tax levied under this Article only for the following
30 purposes:

31 (1) Public school capital outlay purposes, as defined in G.S. 115C-426(f), or to
32 retire any indebtedness incurred by the county for these purposes.

33 (2) Salaries of classroom teachers, salaries of classroom teacher assistants, and
34 supplements of classroom teacher salaries. For the purposes of this section, a
35 classroom teacher is an employee of a local board of education employed as
36 a teacher who spends at least seventy percent (70%) of his or her work time
37 in classroom instruction, and a classroom teacher assistant is an employee of
38 a local board of education employed as a teacher assistant who spends at
39 least seventy percent (70%) of his or her work time assisting in a classroom.

40 (3) Financial support of community colleges, including funds to supplement
41 State financial support of community colleges."

42 **SECTION 32.20.(b)** G.S. 115C-429(b) reads as rewritten:

43 "(b) The board of county commissioners shall complete its action on the school budget
44 on or before July 1, or such later date as may be agreeable to the board of education. The
45 commissioners shall determine the amount of county revenues to be appropriated in the county
46 budget ordinance to the local school administrative unit for the budget year. The board of
47 county commissioners may, in its discretion, allocate part or all of its appropriation by purpose,
48 function, or project as defined in the uniform budget format. For allocations made by the board
49 of county commissioners for the purpose of or for a function related to instructional services,
50 the board of county commissioners may direct the amount of funds to be used for salaries of
51 classroom teachers, salaries of classroom teacher assistants, and supplements of classroom

1 teacher salaries. For the purposes of this section, a classroom teacher is an employee of a local
2 board of education employed as a teacher who spends at least seventy percent (70%) of his or
3 her work time in classroom instruction, and a classroom teacher assistant is an employee of a
4 local board of education employed as a teacher assistant who spends at least seventy percent
5 (70%) of his or her work time assisting in a classroom."

6 **SECTION 32.20.(c)** G.S. 115C-433(b) reads as rewritten:

7 "(b) If the board of county commissioners allocates part or all of its appropriations
8 pursuant to G.S. 115C-429(b), the board of education must obtain the approval of the board of
9 county commissioners for an amendment to the budget that ~~(i) increases~~ does any of the
10 following:

11 (1) Increases or decreases expenditures from the capital outlay fund for projects
12 listed in G.S. 115C-426(f)(1) or ~~(2), or (ii) increases~~ (2).

13 (2) Increases or decreases the amount of county appropriation allocated to a
14 purpose or function by twenty-five percent (25%) or more from the amount
15 contained in the budget ordinance adopted by the board of county
16 commissioners: ~~Provided, provided,~~ that at its discretion, the board may in
17 its budget ordinance specify a lesser percentage, so long as such percentage
18 is not less than ten ~~percent~~ percent (10%).

19 (3) Decreases the amount of funds allocated for salaries of classroom teachers,
20 salaries of classroom teacher assistants, and supplements of classroom
21 teacher salaries. For the purposes of this section, a classroom teacher is an
22 employee of a local board of education employed as a teacher who spends at
23 least seventy percent (70%) of his or her work time in classroom instruction,
24 and a classroom teacher assistant is an employee of a local board of
25 education employed as a teacher assistant who spends at least seventy
26 percent (70%) of his or her work time assisting in a classroom."

27 **SECTION 32.20.(d)** G.S. 115D-55(a) reads as rewritten:

28 "(a) Approval of Budget by Local Tax-Levying Authority. – By a date fixed by the local
29 tax-levying authority, the budget shall be submitted to the local tax-levying authority for
30 approval of that portion within its authority as stated in G.S. 115D-54(b). On or before July 1,
31 or such later date as may be agreeable to the board of trustees, but in no instance later than
32 September 1, the local tax-levying authority shall determine the amount of county revenue to
33 be appropriated to an institution for the budget year. The local tax-levying authority may
34 allocate part or all of an appropriation by purpose, function, or project as defined in the budget
35 manual as adopted by the State Board of Community Colleges. The local tax-levying authority
36 may direct the use of funds appropriated to the institution derived from a tax levied under
37 Article 43A of Chapter 105 of the General Statutes.

38 The local tax-levying authority shall have full authority to call for all books, records, audit
39 reports, and other information bearing on the financial operation of the institution except
40 records dealing with specific persons for which the persons' rights of privacy are protected by
41 either federal or State law.

42 Nothing in this Article shall be construed to place a duty on the local tax-levying authority
43 to fund a deficit incurred by an institution through failure of the institution to comply with the
44 provisions of this Article or rules and regulations issued pursuant hereto."

45 **SECTION 32.20.(e)** G.S. 115D-58(b) reads as rewritten:

46 "(b) If the local tax-levying authority allocates part or all of an appropriation pursuant to
47 G.S. 115D-55, the board of trustees must obtain approval of the local tax-levying authority for
48 an amendment to the budget which ~~increases~~ does any of the following:

49 (1) Increases or decreases the amount of that appropriation allocated to a
50 purpose, function, or project by twenty-five percent (25%) or more from the
51 amount contained in the budget ordinance adopted by the local tax-levying

1 authority or such lesser percentage as specified by the local tax-levying
2 authority in the original budget ordinance, so long as such percentage is not
3 less than ten percent (10%).

4 (2) Decreases the amount of the appropriation directed by the tax-levying
5 authority for a specific use from funds appropriated to the institution derived
6 from a tax levied under Article 43A of Chapter 105 of the General Statutes."

7 **SECTION 32.20.(f)** Part 1 of Article 43 of Chapter 105 of the General Statutes is
8 amended by adding a new section to read:

9 **"§ 105-506.4. Tax rate.**

10 (a) Rate. – The rate of local sales and use tax in a county levying a tax under this
11 Article must meet all of the following conditions:

12 (1) The maximum rate of tax that may be levied under this Article is one-half
13 percent (1/2%).

14 (2) The total local sales and use tax rate in the county may not exceed two and
15 one-half percent (2 1/2%).

16 (b) One-Half Cent (1/2%) Transit-Authorized Counties. – Notwithstanding subsection
17 (a) of this section, the local sales and use tax rate of a county may exceed two and one-half
18 percent (2 1/2%) if all of the conditions listed in this subsection are met. In no event may a
19 county's local sales and use tax rate exceed two and three-quarters percent (2 3/4%). The
20 conditions are:

21 (1) The county is Durham or Orange County.

22 (2) The county levies a tax authorized under Part 4 of this Article.

23 (3) The county conducted one or more advisory referendums on or before
24 January 1, 2014, in which a majority of the voters approved the levy of a
25 local sales and use tax at the rate of one-quarter percent (1/4%) under Article
26 46 of this Chapter.

27 (c) Reinstatement of Cap. – If the levy of a tax under this Article or Article 46 of this
28 Chapter is repealed and the repeal results in the local sales and use tax rate falling below two
29 and three-quarters percent (2 3/4%) in a county listed in subdivision (1) of subsection (b) of this
30 section, the county may not enact a local sales and use tax under this Subchapter that results in
31 a county local sales and use tax rate that exceeds two and one-half percent (2 1/2%)."

32 **SECTION 32.20.(g)** G.S. 105-509 reads as rewritten:

33 **"§ 105-509. Local election on adoption of sales and use tax – regional public**
34 **transportation authority.**

35 (a) Special District. – A regional public transportation authority may create a special
36 district that consists of the entire area of one or more counties within its territorial jurisdiction
37 and jurisdiction. The transportation authority may levy on behalf of the special district the tax
38 authorized in this section—section in a county that held a successful referendum under
39 subsection (b) of this section. The proceeds of a tax levied under this section may be used only
40 for the benefit of the special district and only for the purposes provided in this Article. If a
41 referendum in a district fails in all the counties in the district, the transportation authority may
42 abolish the special district.

43 (b) Resolution. – The board of trustees of the regional public transportation authority
44 may, if all of the conditions listed in this subsection have been met, direct the respective county
45 board or boards of elections to conduct an advisory referendum within the special district on
46 the question of whether a local sales and use tax at the rate of one-half percent (1/2%) may be
47 levied within the district in accordance with this Part. The tax may not be levied without voter
48 approval. The election shall be held on a date jointly agreed upon by the authority, the county
49 board or boards of commissioners, and the county board or boards of elections and shall be
50 held on a date permitted by and in accordance with the procedures of G.S. 163-287. The
51 conditions are as follows:

- 1 (1) The board of trustees has obtained approval to conduct a referendum on or
 2 before January 1, 2014, by a vote of the following:
 3 a. A majority vote of each of the county boards of commissioners
 4 within the special district, if it is a multicounty special district.
 5 b. A majority of the county board of commissioners within the special
 6 district, if it is a single-county special district.
 7 (2) A public hearing is held on the question by the board or boards of
 8 commissioners at least 30 days before the date the election is to be held.

9 (c) Ballot Question. – The form of the question to be presented on a ballot for a special
 10 election concerning the levy of a tax authorized by this Article shall be:

11 "[] FOR [] AGAINST

12 One-half percent (1/2%) local sales and use taxes, in addition to the current local sales and
 13 use taxes, to be used only for public transportation systems."

14 (d) Expansion. – If a special district created under this Part does not include all the
 15 counties in the territorial jurisdiction of a transportation authority, it may be expanded to
 16 include an additional whole county or counties by joint action of the board of trustees of the
 17 transportation authority and the board of commissioners of the county or boards of
 18 commissioners of the counties to be added, ~~with the approval of the voters in the county or~~
 19 ~~counties to be added.~~ The added if all of the conditions listed in this subsection are met. Except
 20 as otherwise provided, the procedure for expansion of a district is the same as for the initial
 21 creation of the district, but the referendum shall be held separately within each of the counties
 22 to be added. The conditions are:

- 23 (1) The county to be included in the special district levies a local sales and use
 24 tax authorized under Part 6 of this Article at the maximum rate of one-half
 25 percent (1/2%).
 26 (2) The county remits, on a monthly basis, the proceeds of the tax levied under
 27 Part 6 of this Article to the regional public transportation authority."

28 **SECTION 32.20.(h)** Part 5 of Article 43 of Chapter 105 of the General Statutes is
 29 repealed.

30 **SECTION 32.20.(i)** Part 6 of Article 43 of Chapter 105 of the General Statutes
 31 reads as rewritten:

32 "Part 6. Other Counties.

33 "**§ 105-511. Applicability.**

34 This Part applies only in counties other than Durham, ~~Forsyth, Guilford, Mecklenburg,~~
 35 ~~Orange, or Wake, or Orange.~~

36 "**§ 105-511.1. Limitations Authority.**

37 A board of county commissioners may, by resolution and after 10 days' public notice, levy
 38 a local sales and use tax under this Article if all of the conditions listed in this subsection are
 39 met. The tax rate is the rate specified in the ballot plus any other State and local sales and use
 40 taxes levied pursuant to law. The conditions are:

- 41 (1) The tax is approved by the majority of those voting in a referendum held
 42 pursuant to this Article.
 43 (2) No other ballot question concerning the levy of a local sales and use tax
 44 authorized under Article 43A or Article 46 of this Chapter may be presented
 45 in the same referendum.
 46 (3) If levied, the tax would not result in a total local sales and use tax rate in the
 47 county in excess of two and one-half percent (2 1/2%).
 48 (4) ~~A county may not levy a tax under this Part unless the~~ The county or at least
 49 one unit of local government in the county operates a public transportation
 50 system. As used in this Part, operation of a public transportation system
 51 includes a contract or interlocal agreement for operation of the public

1 transportation system by another county or municipality, or by a
2 transportation authority created under (i) a municipal charter; or (ii) Article
3 25, 26, or 27 of Chapter 160A of the General Statutes. As used in this Part,
4 operation of a public transportation system also includes a contract with a
5 private entity for operation of the public transportation system.

6 **"§ 105-511.2. Local election on adoption of sales and use tax.**

7 (a) ~~Resolution.~~—~~Referendum.~~— The board of commissioners of a county may direct
8 the county board of elections to conduct an advisory referendum within the county on the
9 question of whether a local sales and use tax at the rate of one-quarter percent (1/4%) may be
10 levied in accordance with this ~~Part.~~ Part subject to the conditions in G.S. 105-511.1. The
11 election shall be held on a date jointly agreed upon by the boards and shall be held on a date
12 permitted by and in accordance with the procedures of G.S. 163-287. The board of
13 commissioners shall hold a public hearing on the question at least 30 days before the date the
14 election is to be held.

15 (b) Ballot Question. – The form of the question to be presented on a ballot for a special
16 election concerning the levy of a tax authorized by this Article shall be:

17 "[] FOR [] AGAINST

18 One-quarter percent (1/4%) local sales and use taxes, in addition to the current local sales
19 and use taxes, to be used only for public transportation systems."

20 **"§ 105-511.3. Levy and collection of sales and use tax.**

21 ~~If the majority of those voting in a referendum held pursuant to this Part vote for the levy of~~
22 ~~the tax, all of the conditions in G.S. 105-511.1 have been met,~~ the board of commissioners of
23 the county may, by resolution, levy one-quarter percent (1/4%) local sales and use taxes in
24 addition to any other State and local sales and use taxes levied pursuant to law. Except as
25 provided in this Part, the adoption, levy, collection, administration, and repeal of these
26 additional taxes shall be in accordance with Article 39 of this Chapter. In applying the
27 provisions of Article 39 of this Chapter to this Part, references to "this Article" mean "Part 6 of
28 Article 43 of Chapter 105 of the General Statutes.

29 **"§ 105-511.4. Distribution and use of taxes.**

30 (a) Distribution. – The Secretary shall, on a monthly basis, allocate to each taxing
31 county the net proceeds of the tax levied under this Part by that county. If the Secretary collects
32 taxes under this Part in a month and the taxes cannot be identified as being attributable to a
33 particular taxing county, the Secretary shall allocate these taxes among the taxing counties, in
34 proportion to the amount of taxes collected in each county under this Part in that month and
35 shall include them in the monthly distribution.

36 The Secretary shall distribute the net proceeds of the tax levied by a county on a per capita
37 basis among the county and the units of local government in the county that operate a public
38 transportation system as follows:

- 39 (1) To the county based on the population of the county that is not in an
40 incorporated area, and to the municipalities within the county based on the
41 population of that municipality that is located within that county. To
42 determine the population of each county and each municipality, the
43 Secretary shall use the most recent annual estimate of population certified by
44 the State Budget Officer.
- 45 (2) Notwithstanding subdivision (1) of this subsection, if a municipality to
46 which funds are to be allocated neither operates nor contracts for the
47 operation of a public transportation system, the population of that
48 municipality shall be excluded from the calculations of subdivision (1) of
49 this subsection.
- 50 (3) Notwithstanding subdivision (1) of this subsection, if a county to which
51 funds are to be allocated neither operates nor contracts for the operation of a

1 public transportation system, the population of that county not in an
2 incorporated area shall be excluded from the calculations of subdivision (1)
3 of this subsection.

4 If a county or a municipality that does not receive an allocation of funds on account of
5 subdivision (2) or (3) of this subsection begins to operate or contract for the operation of a
6 public transportation system, that county or municipality shall begin receiving funds beginning
7 the first day of July that is more than 30 days thereafter.

8 (b) Use. – A county or municipality may use funds received under this Part only for
9 financing, constructing, operating, and maintaining public transportation systems. Every unit of
10 government shall use funds to supplement and not to supplant or replace existing funds or other
11 resources for public transportation systems.

12 (c) Applicability. – This section does not apply to a county that is remitting the
13 proceeds of a tax levied under this Part to a regional public transportation authority under Part 4
14 of this Article."

15 **SECTION 32.20.(j)** Article 46 of Chapter 105 of the General Statutes reads as
16 rewritten:

17 "Article 46.

18 "One-Quarter Cent (1/4¢) or One-Half Cent (1/2¢) County Sales and Use Tax.

19 "**§ 105-535. Short title.**

20 This Article is the One-Quarter Cent (1/4¢) or One-Half Cent (1/2¢) County Sales and Use
21 Tax Act.

22 "**§ 105-536. Limitations.**

23 This Article applies only to counties that levy the first one-cent (1¢) sales and use tax under
24 Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, the first one-half
25 cent (1/2¢) local sales and use tax under Article 40 of this Chapter, and the second one-half
26 cent (1/2¢) local sales and use tax under Article 42 of this Chapter.

27 "**§ 105-537. Levy.**

28 (a) ~~Authority.~~—~~If the majority of those voting in a referendum held pursuant to this~~
29 ~~Article vote for the levy of the tax, the board of county commissioners may, by resolution and~~
30 ~~after 10 days' public notice, levy a local sales and use tax at a rate of one quarter percent~~
31 ~~(0.25%).~~Rate. – The maximum rate of local sales and use tax that may be levied under this
32 Article is one-half percent (1/2%).

33 (a1) Authority. – A board of county commissioners may, by resolution and after 10 days'
34 public notice, levy a local sales and use tax under this Article if all of the conditions listed in
35 this subsection are met. The tax rate is the rate specified in the ballot plus any other State and
36 local sales and use taxes levied pursuant to law. The conditions are:

37 (1) The tax is approved by the majority of those voting in a referendum held
38 pursuant to this Article.

39 (2) No other ballot question concerning the levy of a local sales and use tax
40 authorized under Article 43 or Article 43A of this Chapter may be presented
41 in the same referendum.

42 (3) If levied, the tax would not result in a total local sales and use tax rate in the
43 county in excess of two and one-half percent (2 1/2%).

44 (b) ~~Vote.~~—~~Referendum.~~ – The board of county commissioners may direct the county
45 board of elections to conduct an advisory referendum on the question of whether to levy a local
46 sales and use tax in the county as provided in this Article. at a rate of one-quarter percent
47 (1/4%). The election shall be held in accordance with the procedures of G.S. 163-287.

48 (c) Ballot Question. – The form of the question to be presented on a ballot for a special
49 election concerning the levy of the tax authorized by this Article shall be:

50 "[] FOR [] AGAINST

1 Local sales and use tax at the rate of one-quarter percent (0.25%) in addition to all other
2 State and local sales and use taxes."

3 ...
4 (e) One-Half Percent (1/2%) Transit-Authorized Counties. – As of April 1, 2013,
5 Durham County and Orange County have levied a local sales and use tax at the rate of two and
6 three-quarters percent (2 3/4%). Notwithstanding subsection (a) of this section, the local sales
7 and use tax rate in these counties may exceed two and one-half percent (2 1/2%) if all of the
8 conditions listed in this subsection are met. In no event may the local sales and use tax rate in
9 these counties exceed two and three-quarters percent (2 3/4%). The conditions are:

10 (1) The county levies a tax authorized under Part 4 of Article 43 of this Chapter.

11 (2) The county conducted one or more advisory referendums on or before
12 January 1, 2014, in which a majority of the voters approved the levy of a
13 local sales and use tax at the rate of one-quarter percent (1/4%) under this
14 Article.

15 (f) Reinstatement of Cap. – If the levy of a tax under this Article or Article 43 of this
16 Chapter is repealed and the repeal results in the local sales and use tax rate falling below two
17 and three-quarters percent (2 3/4%) in a county named in subsection (e) of this section, the
18 county may not enact a local sales and use tax under this Subchapter that results in a county
19 local sales and use tax rate that exceeds two and one-half percent (2 1/2%).

20 **"§ 105-538. Administration of taxes.**

21 Except as provided in this Article, the adoption, levy, collection, administration, and repeal
22 of these additional taxes must be in accordance with Article 39 of this Chapter. G.S. 105-468.1
23 is an administrative provision that applies to this Article. A tax levied under this Article does
24 not apply to the sales price of food that is exempt from tax pursuant to G.S. 105-164.13B or to
25 the sales price of a bundled transaction taxable pursuant to G.S. 105-467(a)(5a). The Secretary
26 shall not divide the amount allocated to a county between the county and the municipalities
27 within the county."

28 **SECTION 32.20.(k)** G.S. 105-164.3(4a) reads as rewritten:

29 "(4a) Combined general rate. – The sum of all of the following:

30 a. The State's general rate of tax set in ~~G.S. 105-164.4(a)~~ plus the
31 G.S. 105-164.4(a).

32 b. The sum of the rates of the local sales and use taxes authorized for
33 every county in this State by ~~Subchapter VIII Article 39 of this~~
34 Chapter or Chapter 1096 of the 1967 Session Laws, Article 40 of this
35 Chapter, and Article 42 of this Chapter for every county in this
36 State-Chapter.

37 c. One-half of the maximum rate of tax authorized by Article 46 of this
38 Chapter."

39 **SECTION 32.20.(l)** Subsection (g) of this section is effective when it becomes law
40 and applies to the expansion of a special district created under Part 4 of Article 43 of Chapter
41 105 of the General Statutes on or after that date. Except as otherwise provided, this section is
42 effective when this act becomes law.

43
44 **MISCELLANEOUS PROVISIONS AND EFFECTIVE DATE**

45 **SECTION 32.21.(a)** This Part does not affect the rights or liabilities of a taxing
46 county, a taxpayer, or another person arising under a statute repealed by this Part before the
47 effective date of its repeal, nor does it affect the right to any refund or credit of a tax that
48 accrued under the repealed statute before the effective date of its repeal.

49 **SECTION 32.21.(b)** The Secretary of Revenue may adopt rules needed to
50 administer G.S. 105-130.4(s), as enacted by this Part, in accordance with the expedited
51 procedure for the adoption of rules in G.S. 105-262.1.

1 **SECTION 32.21.(c)** The Utilities Commission shall adjust the rates for public
2 utilities, excluding water public utilities with less than two hundred thousand dollars
3 (\$200,000) in annual operating revenues, for the tax changes listed in this section. Each utility
4 shall calculate the cumulative net effect of the tax changes and file the calculations with
5 proposed rate changes to reflect the net prospective tax changes in utility customer rates within
6 60 days of the enactment of this act. Any adjustments required to existing tax assets or
7 liabilities reflected in the utility's books and records required by the tax changes listed in this
8 section shall be deferred and reflected in customer rates in either the utility's next rate case or
9 earlier if deemed appropriate by the Commission. The Commission shall adjust rates for the
10 following changes:

- 11 (1) The corporate income tax rate reduction and tax base expansion in Section
12 32.13 of this act.
- 13 (2) The phase-in of single sales factor and the adoption of market-base sourcing
14 in Section 32.14 of this act.
- 15 (3) The franchise tax rate reduction and tax base simplification in Section 32.15
16 of this act.

17 **SECTION 32.21.(d)** Except as otherwise provided, this Part is effective when it
18 becomes law.

19 **PART XXXIII. MISCELLANEOUS PROVISIONS**

20 **STATE BUDGET ACT APPLIES**

21 **SECTION 33.1.** The provisions of the State Budget Act, Chapter 143C of the
22 General Statutes, are reenacted and shall remain in full force and effect and are incorporated in
23 this act by reference.
24
25
26

27 **COMMITTEE REPORT**

28 **SECTION 33.2.(a)** The Senate Committee on Appropriations/Base Budget Report
29 on the Base, Expansion and Capital Budgets for House Bill 97, dated June 16, 2015, which was
30 distributed in the Senate and used to explain this act, shall indicate action by the General
31 Assembly on this act and shall, therefore, be used to construe this act, as provided in the State
32 Budget Act, Chapter 143C of the General Statutes, as appropriate, and for these purposes shall
33 be considered a part of this act and, as such, shall be printed as a part of the Session Laws.

34 **SECTION 33.2.(b)** The budget enacted by the General Assembly is for the
35 maintenance of the various departments, institutions, and other spending agencies of the State
36 for the 2015-2017 biennial budget as provided in G.S. 143C-3-5. This budget includes the
37 appropriations of State funds as defined in G.S. 143C-1-1(d)(25).

38 The Director of the Budget submitted a recommended base budget to the General
39 Assembly on March 5, 2015, in the document "The Governor's Recommended Budget, the
40 State of North Carolina 2015-2017" and in the Budget Support Document for the various
41 departments, institutions, and other spending agencies of the State. The adjustments to these
42 documents made by the General Assembly are set out in the Committee Report.

43 **SECTION 33.2.(c)** The budget enacted by the General Assembly shall also be
44 interpreted in accordance with G.S. 143C-5-5, the special provisions in this act, and other
45 appropriate legislation. In the event that there is a conflict between the line-item budget
46 certified by the Director of the Budget and the budget enacted by the General Assembly, the
47 budget enacted by the General Assembly shall prevail.
48

49 **REPORT BY FISCAL RESEARCH DIVISION**

50 **SECTION 33.3.** The Fiscal Research Division shall issue a report on budget
51 actions taken by the 2015 Regular Session of the General Assembly. The report shall be in the

1 form of a revision of the Committee Report adopted for House Bill 97 pursuant to
2 G.S. 143C-5-5. The Director of the Fiscal Research Division shall send a copy of the report
3 issued pursuant to this section to the Director of the Budget. The report shall be published on
4 the General Assembly's Internet Web site for public access.
5

6 **MOST TEXT APPLIES TO THE 2015-2017 FISCAL BIENNIUM**

7 **SECTION 33.4.** Except for statutory changes or other provisions that clearly
8 indicate an intention to have effects beyond the 2015-2017 fiscal biennium, the textual
9 provisions of this act apply only to funds appropriated for, and activities occurring during, the
10 2015-2017 fiscal biennium.
11

12 **EFFECT OF HEADINGS**

13 **SECTION 33.5.** The headings to the Parts, subparts, and sections of this act are a
14 convenience to the reader and are for reference only. The headings do not expand, limit, or
15 define the text of this act, except for effective dates referring to a Part or subpart.
16

17 **SEVERABILITY**

18 **SECTION 33.6.** If any section or provision of this act is declared unconstitutional
19 or invalid by the courts, it does not affect the validity of this act as a whole or any part other
20 than the part so declared to be unconstitutional or invalid.
21

22 **EFFECTIVE DATE**

23 **SECTION 33.7.** Except as otherwise provided, this act becomes effective July 1,
24 2015.