

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

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**SENATE BILL 402
Appropriations/Base Budget Committee Substitute Adopted 5/21/13
Finance Committee Substitute Adopted 5/21/13**

Short Title: Appropriations Act of 2013.

(Public)

Sponsors:

Referred to:

March 26, 2013

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**

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

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 departments, institutions, and agencies, and for other purposes as
25 enumerated, are made for the fiscal biennium ending June 30, 2015, according to the following
26 schedule:

27		28	2013-2014	29	2014-2013
30	EDUCATION				
31					
32	Community Colleges System Office	\$	1,026,315,467	\$	1,014,315,467
33					
34	Department of Public Instruction		7,849,691,842		8,032,588,328
35					



1	University of North Carolina – Board of Governors		
2	Appalachian State University	127,908,903	127,908,903
3	East Carolina University		
4	Academic Affairs	220,012,450	220,615,626
5	Health Affairs	64,841,247	64,841,247
6	Elizabeth City State University	35,363,212	35,385,057
7	Fayetteville State University	49,336,186	49,336,186
8	NC A&T State University	96,882,428	96,882,428
9	NC Central University	84,084,488	84,084,488
10	NC State University		
11	Academic Affairs	389,976,973	390,045,059
12	Agricultural Extension	39,859,682	39,859,682
13	Agricultural Research	54,911,053	54,911,053
14	UNC – Asheville	37,465,299	37,465,299
15	UNC – Chapel Hill		
16	Academic Affairs	274,632,544	274,515,010
17	Health Affairs	202,260,403	205,741,444
18	Area Health Education Centers	42,418,348	42,418,348
19	UNC – Charlotte	192,697,970	192,683,456
20	UNC – Greensboro	153,838,192	153,783,960
21	UNC – Pembroke	54,175,566	54,175,566
22	UNC School of the Arts	31,547,460	29,146,203
23	UNC – Wilmington	96,484,692	96,484,692
24	Western Carolina University	83,140,199	83,161,081
25	Winston-Salem State University	68,957,656	68,980,084
26	General Administration	34,752,475	34,752,475
27	University Institutional Programs	(12,320,751)	(25,204,458)
28	Related Educational Programs	82,160,148	107,918,501
29	NC School of Science and Mathematics	19,126,182	19,126,182
30	Aid to Private Colleges	88,851,588	88,851,588
31	Total University of North Carolina –		
32	Board of Governors	\$ 2,613,364,593	\$ 2,627,869,160

HEALTH AND HUMAN SERVICES

36	Department of Health and Human Services		
37	Central Management and Support	\$ 65,069,146	\$ 62,655,211
38	Division of Aging & Adult Services	54,142,341	54,342,341
39	Division of Blind Services/Deaf/HH	8,178,618	8,178,618
40	Division of Child Development & Early Education	255,039,269	255,039,269
41	Health Service Regulation	15,822,840	15,818,506
42	Division of Medical Assistance	3,484,745,754	3,655,086,552
43	Division of Mental Health, Developmental		
44	Disabilities, & Substance Abuse Services	675,738,286	678,592,084
45	NC Health Choice	67,177,341	56,281,405
46	Division of Public Health	147,178,997	144,980,498
47	Division of Social Services	172,455,677	172,519,249
48	Division of Vocation Rehabilitation	38,773,169	38,773,169
49	Total Health and Human Services	\$ 4,984,321,438	\$ 5,142,266,902

NATURAL AND ECONOMIC RESOURCES

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

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

1	General Debt Service	725,057,796	745,471,838
2	Federal Reimbursement	1,616,380	1,616,380
3			
4	TOTAL CURRENT OPERATIONS –		
5	GENERAL FUND	\$ 20,566,991,548	\$ 20,946,264,333
6			
7	GENERAL FUND AVAILABILITY STATEMENT		
8	SECTION 2.2.(a) The General Fund availability used in developing the 2013-2015		
9	biennial budget is shown below.		
10		FY 2013-2014	FY 2014-2015
11	Unappropriated Balance Remaining from Previous Year \$	213,432,877	\$ 106,360,611
12	Anticipated Overcollections from FY 2012-13	405,700,000	0
13	Overcollections Due to MSA Disputed Payments	51,510,749	
14	Anticipated Reversions from FY 2012-13	170,000,000	0
15	Net Supplemental Medicaid Appropriations (H.B. 980)	(306,100,000)	
16			
17	Less Earmarkings of Year End Fund Balance		
18	Savings Reserve	(165,075,883)	(74,244,692)
19	Repairs and Renovations	(100,000,000)	(25,502,274)
20			
21	Beginning Unreserved Fund Balance	\$ 269,467,743	\$ 6,613,645
22			
23	Revenues Based on Existing Tax Structure	\$ 19,628,100,000	\$ 20,549,000,000
24			
25	Nontax Revenues		
26	Investment Income	13,700,000	14,100,000
27	Judicial Fees	250,200,000	251,400,000
28	Disproportionate Share	110,000,000	109,000,000
29	Insurance	72,500,000	73,400,000
30	Other Nontax Revenues	173,000,000	175,000,000
31	Highway Trust Fund/Use Tax Reimbursement Transfer	0	0
32	Highway Fund Transfer	218,100,000	215,900,000
33	Subtotal Nontax Revenues	837,500,000	838,800,000
34			
35	Total General Fund Availability	\$ 20,735,067,743	\$ 21,394,413,645
36			
37	Adjustments to Availability: 2013 Session		
38	Finance Package	\$ (217,100,000)	\$ (553,100,000)
39	Tobacco Master Settlement Agreement (MSA)	137,500,000	137,500,000
40	MSA Disputed Payments Erroneously Paid to		
41	Golden LEAF (S.L. 2011-145)	24,639,357	0
42	Repeal North Carolina Public Campaign Fund	3,500,000	0
43	Transfer from NC Flex FICA Fund Balance	2,000,000	0
44	Transfer from E-Commerce Reserve Fund Balance	5,111,585	4,000,000
45	Transfer from Misdemeanant Confinement Fund	1,000,000	1,000,000
46	Repeal Portion of Solid Waste Disposal Tax Earmark	2,300,000	2,300,000
47	Increase Lobbyist Fees	400,000	400,000
48	Adjust Transfer from Insurance Regulatory Fund	(460,589)	(460,589)
49	Adjust Transfer from Treasurer's Office	175,215	175,215
50	Adjust Gross Premiums Tax for Volunteer Safety Workers	(3,000,000)	(3,000,000)
51	Certificate of Need Exemption for Replacement		

1	of Equipment and Facilities on Main Campus	(639,152)	(643,486)
2	Subtotal Adjustments to Availability:		
3	2013 Session	\$ (44,573,584)	\$ (411,828,860)
4			
5	Revised General Fund Availability	\$ 20,690,494,159	\$ 20,982,584,785
6			
7	Less: General Fund Appropriations	\$ (20,584,133,548)	\$ (20,954,514,333)
8			

9 **Unappropriated Balance Remaining** \$ 106,360,611 \$ 28,070,452

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

13 **SECTION 2.2.(c)** In addition to funds transferred pursuant to G.S. 105-164.44D,
 14 the sum of one hundred ninety-six million five hundred eighty-two thousand nine hundred
 15 eighty-one (\$196,582,981) for the 2013-2014 fiscal year and the sum of one hundred ninety-six
 16 million five hundred eighty-two thousand nine hundred eighty-one (\$196,582,981) for the
 17 2014-2015 fiscal year shall be transferred from the Highway Fund to the General Fund.

18 **SECTION 2.2.(d)** Notwithstanding any other provision of law to the contrary,
 19 effective July 1, 2013, the following amounts shall be transferred to the State Controller to be
 20 deposited in the appropriate budget code as determined by the State Controller. These funds
 21 shall be used to support the General Fund appropriations as specified in this act for the
 22 2013-2014 fiscal year and the 2014-2015 fiscal year.

24	Budget	Fund		FY 2013-2014	FY 2014-2015
25	Code	Code	Description	Amount	Amount
26	24100	2514	E-Commerce Fund	\$ 5,111,585	\$ 4,000,000
27	24500	2225	Misdemeanant Confinement Fund	1,000,000	1,000,000

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

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

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

49 **SECTION 2.2.(h)** Of the unexpended and unencumbered monies credited to the
 50 North Carolina Public Campaign Fund, established under repealed G.S. 163-278.63, the sum of

1 three million five hundred thousand dollars (\$3,500,000) for the 2013-2014 fiscal year shall be
2 transferred to the General Fund.

3 **SECTION 2.2.(i)** Notwithstanding any other provision of law, the sum of five
4 million one hundred eleven thousand five hundred eighty-five dollars (\$5,111,585) for the
5 2013-2014 fiscal year and the sum of four million dollars (\$4,000,000) for the 2014-2015 fiscal
6 year shall be transferred from the E-Commerce Reserve, Budget Code 24100, to the State
7 Controller to be deposited in the appropriate budget code as determined by the State Controller
8 for each fiscal year.

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

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

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

17 Current Operations – Highway Fund	2013-2014	2014-2015
19 Department of Transportation		
20 Administration	\$ 94,027,709	\$ 98,994,109
22 Division of Highways		
23 Administration	34,218,958	34,218,958
24 Construction	55,923,707	41,859,878
25 Maintenance	1,141,487,787	1,031,662,280
26 Planning and Research	4,055,402	4,055,402
27 OSHA Program	365,337	365,337
29 Ferry Operations	40,564,796	39,414,796
31 State Aid to Municipalities	142,293,840	136,874,010
33 Intermodal Divisions		
34 Public Transportation	83,351,374	83,351,374
35 Aviation	22,244,510	22,244,510
36 Rail	40,392,294	24,942,294
37 Bicycle and Pedestrian	751,066	751,066
39 Governor's Highway Safety	284,932	284,932
40 Division of Motor Vehicles	116,352,241	116,996,778
42 Other State Agencies, Reserves, Transfers	259,634,197	261,737,076
44 Capital Improvements	18,055,500	19,937,700
46 Total Highway Fund Appropriations	\$2,054,003,650	\$1,917,690,500

48 **HIGHWAY FUND/AVAILABILITY STATEMENT**

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

	2013-2014	2014-2015
Highway Fund Availability Statement		
Unreserved Fund Balance	\$ 74,150,000	\$ 0
Estimated Revenue	1,937,200,000	1,892,400,000
Adjustment to Revenue Availability:		
Adjustment to Emission Inspection Fees	23,600,000	21,600,000
Adjustment to Technology Improvement Account Fees	634,000	634,000
Motor Fuel Tax		
(Shallow Draft Navigation Channel Dredging Fund)	(2,280,350)	(2,193,500)
Hybrid/Electric Vehicle Registration Fee	1,500,000	1,500,000
North Carolina Railroad Company Dividend Payments	19,200,000	3,750,000
Total Highway Fund Availability	\$ 2,054,003,650	\$ 1,917,690,500
Unappropriated Balance	\$ 0	\$ 0

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

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

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

HIGHWAY TRUST FUND AVAILABILITY STATEMENT

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

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

PART V. OTHER APPROPRIATIONS

1 APPROPRIATION OF OTHER FUNDS

2 **SECTION 5.1.(a)** Expenditures of cash balances, federal funds, departmental
3 receipts, grants, and gifts from the various General Fund, Special Revenue Fund, Enterprise
4 Fund, Internal Service Fund, and Trust and Agency Fund budget codes are appropriated and
5 authorized for the 2013-2015 fiscal biennium as follows:

6 (1) For all budget codes listed in "The State of North Carolina Recommended
7 Continuation Budget and Fund Purpose Statements, 2013-2015" and in the
8 Budget Support Document, cash balances and receipts are appropriated up to
9 the amounts specified, as adjusted by the General Assembly, for the
10 2013-2014 fiscal year and the 2014-2015 fiscal year. Funds may be
11 expended only for the programs, purposes, objects, and line items or as
12 otherwise authorized by the General Assembly. Expansion budget funds
13 listed in those documents are appropriated only as otherwise provided in this
14 act.

15 (2) Notwithstanding the provisions of subdivision (1) of this subsection:

16 a. Any receipts that are required to be used to pay debt service
17 requirements for various outstanding bond issues and certificates of
18 participation are appropriated up to the actual amounts received for
19 the 2013-2014 fiscal year and the 2014-2015 fiscal year and shall be
20 used only to pay debt service requirements.

21 b. Other funds, cash balances, and receipts of funds that meet the
22 definition issued by the Governmental Accounting Standards Board
23 of a trust or agency fund are appropriated for and in the amounts
24 required to meet the legal requirements of the trust agreement for the
25 2013-2014 fiscal year and the 2014-2015 fiscal year.

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

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

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

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

5 **OTHER RECEIPTS FROM PENDING GRANT AWARDS**

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

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

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

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

25 **SECTION 5.2.(d)** Notwithstanding G.S. 143C-6-4 and subsection (b) of this
 26 section, State agencies may spend funds received from the following grants for the 2013-2014
 27 fiscal year and 2014-2015 fiscal year awarded subsequent to the enactment of this act for up to
 28 the specified amounts:
 29

	2013-2014	2014-2015
32 Department of Agriculture and Consumer Services		
33 Soil and Water Conservation GIS Project	\$30,000	\$0
34		
35 Department of Public Instruction		
36 The New Venture Fund	\$75,000	\$0
37 Promoting Adolescent Health through		
38 School-Based HIV/STD Prevention	\$290,000	\$400,000
39		

40 Neither the approval of the Director of the Budget nor consultation with the Joint Legislative
 41 Commission on Governmental Operations is required prior to the expenditure of these funds.
 42

43 **CIVIL PENALTY AND FORFEITURE FUND**

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

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

1 **SECTION 5.3.(b)** Excess receipts realized in the Civil Penalty and Forfeiture Fund
2 in the 2012-2013 fiscal year are hereby appropriated to the State Public School Fund for the
3 2013-2014 fiscal year.

4 5 **INDIAN GAMING EDUCATION REVENUE FUND**

6 **SECTION 5.4.(a)** There is appropriated from the Indian Gaming Education
7 Revenue Fund to the Department of Public Instruction, School Technology Fund, the sum of
8 three million dollars (\$3,000,000) for the 2013-2014 fiscal year and the sum of three million
9 five hundred thousand dollars (\$3,500,000) for the 2014-2015 fiscal year.

10 **SECTION 5.4.(b)** G.S. 143C-9-7 does not apply to the use of these funds for the
11 2013-2015 fiscal biennium.

12 13 **PART VI. GENERAL PROVISIONS**

14 15 **CONTINGENCY AND EMERGENCY FUND LIMITATION**

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

22 23 **ESTABLISHING OR INCREASING FEES UNDER THIS ACT**

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

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

31 32 **GLOBAL TRANSPARK LOAN REPAYMENT**

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

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

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

39 40 **MSA PAYMENTS**

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

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

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

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

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

- 1 a. Debt service as authorized by the State Capital Facilities Act of 2004,
 2 Part 1 of S.L. 2004-179 and S.L. 2004-124. As soon as practicable
 3 after the beginning of each fiscal year, the State Treasurer shall
 4 estimate and transfer to Budget Code 69430 the amount of debt
 5 service anticipated to be paid during the fiscal year for special
 6 indebtedness authorized by the State Capital Facilities Act of 2004.
- 7 b. The sum of eight million dollars (\$8,000,000) is credited to Budget
 8 Code 69430 and shall be transferred to the University Cancer
 9 Research Fund in accordance with G.S. 116-29.1.
- 10 e. The balance remaining to be credited to the State General Fund to be
 11 used for the following purposes:
- 12 1. The benefit of tobacco producers, tobacco allotment holders,
 13 and persons engaged in tobacco-related businesses. To carry
 14 out this purpose, funds may provide direct and indirect
 15 financial assistance, to the extent allowed by law, to (i)
 16 indemnify tobacco producers, allotment holders, and persons
 17 engaged in tobacco-related businesses from the adverse
 18 economic effects of the Master Settlement Agreement, (ii)
 19 compensate tobacco producers and allotment holders for the
 20 economic loss resulting from lost quota, and (iii) revitalize
 21 tobacco dependent communities.
 - 22 2. The benefit of health to fund programs and initiatives that
 23 include research, education, prevention, and treatment of
 24 health problems in North Carolina and to increase the
 25 capacity of communities to respond to the public's health
 26 needs through programs such as Health Choice and the State's
 27 Medicaid program.

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

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

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

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

- 44 (1) ~~Of the funds credited to Budget Code 69430 in the Department of State~~
 45 ~~Treasurer, the sum of eight million dollars (\$8,000,000) is transferred from~~
 46 ~~Budget Code 69430 to the University Cancer Research Fund and~~
 47 ~~appropriated for this purpose.~~
- 48 (2) ~~The the~~ funds remitted to the University Cancer Research Fund by the
 49 Secretary of Revenue from the tax on tobacco products other than cigarettes
 50 pursuant to G.S. 105-113.40A ~~is~~are appropriated for this purpose.

- 1 (3) ~~An amount equal to the difference between (i) fifty million dollars~~
2 ~~(\$50,000,000) and (ii) the amounts appropriated pursuant to subdivisions (1)~~
3 ~~and (2) of this subsection is appropriated from the General Fund for this~~
4 ~~purpose."~~

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

6 **"§ 143C-9-3. Settlement Reserve Fund.**

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

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

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

22
23 **GOVERNMENT EFFICIENCY AND REFORM**

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

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

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

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

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

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

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

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

32 **EXPENDITURES OF FUNDS IN RESERVES LIMITED**

33 **SECTION 6.6.** All funds appropriated by this act into reserves may be expended
34 only for the purposes for which the reserves were established.
35
36

37 **BUDGET CODE CONSOLIDATIONS**

38 **SECTION 6.7.** Notwithstanding G.S. 143C-6-4, the Office of State Budget and
39 Management may, after reporting to the Fiscal Research Division, adjust the authorized budget
40 by making transfers among purposes or programs for the purpose of consolidating budget and
41 fund codes or eliminating inactive budget and fund codes. The Office of State Budget and
42 Management shall change the authorized budget to reflect these adjustments.
43

44 **NORTH CAROLINA EDUCATION LOTTERY**

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

46 "(a) Except as otherwise specifically provided in this subsection for contracts for the
47 purchase of services, apparatus, supplies, materials, or equipment, Article 8 of Chapter 143 of
48 the General Statutes, including the provisions relating to minority participation goals, shall
49 apply to contracts entered into by the Commission. If this subsection and Article 8 of Chapter
50 143 are in conflict, the provisions of this subsection shall control. In recognition of the
51 particularly sensitive nature of the Lottery and the competence, quality of product, experience,

1 and timeliness, fairness, and integrity in the operation and administration of the Lottery and
 2 maximization of the objective of raising revenues, a contract for the purchase of services,
 3 apparatus, supplies, materials, or equipment requiring an estimated aggregate expenditure of
 4 ~~ninety thousand dollars (\$90,000)~~ three hundred thousand dollars (\$300,000) or more may be
 5 awarded by the Commission only after the following have occurred:

6"

7
 8 **PROVISION OF ANONYMOUS TAX RETURN DATA TO REVENUE ESTIMATORS**

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

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

16 ...

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

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

24"

25
 26 **EXEMPTIONS FROM MANAGEMENT FLEXIBILITY REDUCTIONS**

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

30
 31 **CLOSE OUT PUBLIC SCHOOL BUILDING CAPITAL FUND/ APPROPRIATE**
 32 **EDUCATION LOTTERY FUNDS**

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

34 "**§ 115C-546.1. Creation of Fund; administration.**

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

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

43 Period	Fraction
44 10/1/97 to 9/30/98	One-fifteenth (1/15)
45 10/1/98 to 9/30/99	Two-twenty-ninths (2/29)
46 10/1/99 to 9/30/00	One-fourteenth (1/14)
47 After 9/30/00	Five-sixty-ninths (5/69)

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

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

50 "**§ 115C-546.2. Allocations from the Fund; uses; expenditures; reversion to General**
 51 **Fund; matching requirements.**

1 ~~(a) Of the monies credited to the Fund by the Secretary of Revenue pursuant to~~
2 ~~G.S. 115C-546.1(b), the State Board of Education may allocate up to one million dollars~~
3 ~~(\$1,000,000) each year to the Department of Public Instruction. These funds shall be used by~~
4 ~~the Plant Operation Section of the School Support Division to assist each local school~~
5 ~~administrative unit with effective energy and environmental management, effective water~~
6 ~~management, hazardous material management, clean air quality, and engineering support for~~
7 ~~safe, effective environmental practices. The remainder of the monies in the Fund shall be~~
8 ~~allocated to the counties on a per average daily membership basis according to the average~~
9 ~~daily membership for the budget year as determined and certified by the State Board of~~
10 ~~Education. Interest earned on funds allocated to each county shall be allocated to that county.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 **"§ 18C-164. Transfer of net revenues.**

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

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

49 (c) ~~The Commission shall distribute~~ The General Assembly shall appropriate the
50 remaining net revenue of the Education Lottery Fund, as follows, in the following manner: Fund
51 annually in the Current Operations Appropriations Act, based upon estimates of lottery net

1 revenue to the Education Lottery Fund provided by the Office of State Budget and
 2 Management and the Fiscal Research Division of the Legislative Services Commission.

3 (1) ~~A sum equal to fifty percent (50%) to support reduction of class size in early~~
 4 ~~grades to class size allotments not exceeding 1:18 in order to eliminate~~
 5 ~~achievement gaps and to support academic prekindergarten programs for~~
 6 ~~at-risk four-year-olds who would otherwise not be served in a high-quality~~
 7 ~~education program in order to help those four-year-olds be prepared~~
 8 ~~developmentally to succeed in school.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

	FY 2013-2014	FY 2014-2015
48		
49		
50 Classroom Teachers	\$ 220,643,188	\$ 220,643,188
51 Prekindergarten Program	\$ 63,135,709	\$ 63,135,709

1	Public School Building Capital Fund	\$ 100,000,000	\$ 100,000,000
2	Scholarships for Needy Students	\$ 30,450,000	\$ 30,450,000
3	UNC Need-Based Financial Aid	\$ 10,744,733	\$ 10,744,733
4	UNC Need-Based Financial Aid Forward Funding Reserve	\$ 55,128,620	-
5	Lottery Reserve Fund	-	\$ 43,459,463
6			
7	TOTAL APPROPRIATION	\$ 480,102,250	\$ 468,433,093

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

11 **SECTION 6.11.(g)** Notwithstanding G.S. 18C-164(c), Article 35A of Chapter
12 115C of the General Statutes, or any other provision of law, the funds appropriated in this
13 section for UNC Need-Based Financial Aid shall be administered in accordance with the policy
14 adopted by the Board of Governors of The University of North Carolina.

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

17 AMEND STATE BUDGET ACT

19 TECHNICAL CORRECTIONS AND CLARIFYING CHANGES

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

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

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

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

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

32 "(c) Notwithstanding subsections (a) and (b) of this section, funds established for The
33 University of North Carolina and its constituent institutions pursuant to the following statutes
34 are exempt from Chapter 143C of the General Statutes and shall be accounted for as provided
35 by those statutes, except that the provisions of Article 8 of Chapter 143C of the General
36 Statutes shall apply to the funds: G.S. 116-35, 116-36, 116-36.1, 116-36.2, 116-36.4, 116-36.5,
37 116-36.6, 116-44.4, 116-68, 116-220, ~~116-235, 116-238, 116-235.~~"

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

40 "**§ 143C-1-5. Chapter is applicable to The University of North Carolina.**

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

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

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

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

50 "**§ 143C-9-6. JDIG Reserve Fund Reserve.**

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

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

8 **SECTION 6.12.(g)** G.S. 143C-9-8(a) reads as rewritten:

9 "(a) The State Controller shall establish a reserve in the General Fund to be known as the
10 One North Carolina Fund Reserve. Funds from the One North Carolina Fund Reserve shall not
11 be ~~expended or transferred~~ except in accordance with G.S. 143B-437.75."

12 **SUBSTANTIVE CHANGES**

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

15 "(1a) Authorized budget. – The certified budget with changes authorized by the
16 Director of the Budget through authority granted in G.S. 143C-6-4 or other
17 statutes.

18 (1b) Availability. – The total anticipated cash available within a fund for
19 appropriation purposes, including unreserved fund balance and all revenue
20 and receipts anticipated in a fiscal year.

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

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

33 "(7) Certified budget. – The budget as enacted by the General Assembly
34 including adjustments made for (i) distributions to State agencies from
35 statewide reserves appropriated by the General Assembly, (ii) distributions
36 of reserves appropriated to a specific agency by the General Assembly, and
37 (iii) organizational or budget changes ~~directed~~ mandated by the General
38 Assembly but left to the Director to carry out.Assembly."

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

40 **"§ 143C-3-3. Budget requests from State agencies in the executive branch.**

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

48 ...
49 (e) Information Technology Request. – In addition to any other information requested
50 by the Director, any State agency requesting significant State resources, as defined by the
51

1 Director, for the purpose of acquiring or maintaining information technology shall accompany
2 that request with all of the following:

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

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

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

20 "**§ 143C-3-5. Budget recommendations and budget message.**

21 ...

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

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

36 (1a) The Governor's Recommended State Budget shall include a continuation
37 budget, which shall be presented in the budget support document pursuant to
38 subdivision (2) of this subsection.

39 ...

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

43 (c) Even-Numbered ~~Fiscal~~ Years. – In even-numbered years, the Governor may
44 recommend changes in the enacted budget for the second year of the biennium. These
45 recommendations shall be presented as amendments to the enacted budget and shall be
46 incorporated in a recommended Current Operations Appropriation Act and a recommended
47 Capital Improvements Appropriations Act as necessary. Any recommended changes shall
48 clearly distinguish program reductions, program eliminations, program expansions, and new
49 programs, and shall explain all proposed capital improvements in the context of the Six-Year
50 Capital Improvements Plan and as required by G.S. 143C-8-6. The Governor shall provide

1 sufficient supporting documentation and accounting detail, consistent with that required by
2 G.S. 143C-3-5(b), corresponding to the recommended amendments to the enacted budget.

3 (d) Funds Included in Budget. – Consistent with requirements of the North Carolina
4 Constitution, Article 5, Section 7(1), the Governor's Recommended State Budget, together with
5 the Budget Support Document, shall include recommended expenditures of State funds from all
6 Governmental and Proprietary Funds, as those funds are described in ~~G.S. 143C-1-3.~~
7 G.S. 143C-1-3, and all funds established for The University of North Carolina and its
8 constituent institutions that are subject to this Chapter. Except where provided otherwise by
9 federal law, funds received from the federal government become State funds when deposited in
10 the State treasury and shall be classified and accounted for in the Governor's budget
11 recommendations no differently than funds from other sources.

12"

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

14 "**§ 143C-4-3. Repairs and Renovations Reserve Account.**~~Reserve.~~

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

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

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

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

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

44 (d) ~~Board of Governors May Allocate Allocation and Reallocation of Funds to for~~
45 Particular Projects. – Any funds in the ~~Reserve for Repairs and Renovations Reserve~~ that are
46 allocated to the Board of Governors of The University of North Carolina or to the Office of
47 State Budget and Management may be allocated or reallocated by ~~the Board~~ those agencies for
48 repairs and renovations projects so long as (i) ~~any project that receives an allocation or~~
49 ~~reallocation satisfies the requirements of subsection (b) of this section unless the Board~~
50 ~~determines that sufficient funds are not available from other sources and that conditions~~
51 ~~warrant General Fund assistance and (ii) the allocation or reallocation is in accordance with~~

1 ~~guidelines developed in The University of North Carolina Funding Allocation Model for~~
 2 ~~Reserve for Repairs and Renovations, as approved by the Board of Governors of The~~
 3 ~~University of North Carolina. The Board of Governors shall report to the Joint Legislative~~
 4 ~~Commission on Governmental Operations on the allocation or reallocation of funds pursuant to~~
 5 ~~this section within 60 days of any allocation or reallocation under this subsection.~~ all of the
 6 following conditions are satisfied:

7 (1) Any project that receives an allocation or reallocation satisfies the
 8 requirements of subsection (b) of this section.

9 (2) If the allocation or reallocation of funds from one project to another under
 10 this section is two million five hundred thousand dollars (\$2,500,000) or
 11 more for a particular project, the Office of State Budget and Management or
 12 the Board of Governors, as appropriate, consults with the Joint Legislative
 13 Commission on Governmental Operations prior to the expenditure or
 14 reallocation.

15 (3) If the allocation or reallocation of funds from one project to another under
 16 this section is less than two million five hundred thousand dollars
 17 (\$2,500,000) for a particular project, the allocation or reallocation of funds is
 18 reported to the Joint Legislative Commission on Governmental Operations
 19 within 60 days of the expenditure or reallocation.

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

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

30 **"§ 143C-5-2. Order of appropriations bills.**

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

35 (1) An appropriations bill to respond to an emergency as defined by
 36 G.S. 166A-19.3.

37 (2) An appropriations bill making adjustments to the current year budget.

38 (3) An appropriations bill authorizing continued operations at current funding
 39 levels.

40 (4) In even-numbered years, an appropriations bill that contains a statement that
 41 the General Assembly does not intend to enact a Current Operations
 42 Appropriations Act that year.

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

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

46 **"§ 143C-6-1. Budget enacted by the General Assembly; certified budgets of State**
 47 **agencies.**

48 ...

49 (b) Departmental Receipts. – Departmental receipts collected to support a program or
 50 purpose shall be credited to the fund from which appropriations have been made to support that
 51 program or purpose. A State agency shall expend departmental receipts first, including receipts

1 in excess of the amount of receipts budgeted in the certified budget for the program or purpose,
 2 and shall expend other funds appropriated for the purpose or program only to the extent that
 3 receipts are insufficient to meet the costs anticipated in the certified budget.

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

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

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

15 **"§ 143C-6-4. Budget Adjustments Authorized.**

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

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

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

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

33 a. Required by a court or Industrial Commission order;

34 b. Authorized under G.S. 166A-19.40(a) of the North Carolina
 35 Emergency Management Act; or

36 c. Required to call out the North Carolina National Guard.

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

41 a. The overexpenditure is required to continue the purpose or programs
 42 due to complications or changes in circumstances that could not have
 43 been foreseen when the budget for the fiscal period was enacted, (ii)
 44 the enacted.

45 b. The scope of the purpose or program is not increased, (iii)
 46 the increased.

47 c. The overexpenditure is authorized on a nonrecurring basis, and (iv)
 48 under no circumstances shall the total requirements for a State
 49 department exceed the department's certified budget for the fiscal
 50 year by more than three percent (3%) without prior consultation with

1 ~~the Joint Legislative Commission on Governmental Operations~~
2 ~~one-time nonrecurring basis for one year only.~~

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

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

10"

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

12 **"§ 143C-6-21. Payments to nonprofits.**

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

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

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

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

28 **"§ 143C-8-2. Capital facilities inventory.**

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

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

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

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

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

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

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

49 "(b) ~~Funds~~Upon appropriation by the General Assembly, funds received in the Indian
50 Gaming Education Revenue Fund ~~are hereby appropriated as received to the State Public~~
51 ~~School Fund for quarterly allotments~~shall be allocated quarterly by the State Board of Education

1 to local school administrative units, charter schools, and regional schools on the basis of
 2 allotted average daily membership. The funds allotted by the State Board of Education pursuant
 3 to this section shall be nonreverting. Funds received pursuant to this section by local school
 4 administrative units shall be expended for classroom teachers, teacher assistants, classroom
 5 materials or supplies, or textbooks."
 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 2013-2014	FY 2014-2015
14 General Fund Appropriation for IT Fund	\$6,053,142	\$6,055,342
15 General Fund Appropriation for		
16 Government Data Analytics Center	3,000,000	4,417,515
17 Interest	\$2,200	\$2,200
18 IT Fund Balance, June 30	\$0	\$0
19		
20 Total Funds Available	\$9,055,342	\$10,475,057
21 Appropriations are made from the Information Technology Fund for the 2013-2015 fiscal		
22 biennium as follows:		
23 Information Technology Operations		
24 Criminal Justice Information Network	\$189,563	\$189,563
25 Center for Geographic Information and Analysis	\$495,338	\$495,338
26 Enterprise Security Risk Management	\$864,148	\$864,148
27 Enterprise Project Management Office	\$1,473,285	\$1,473,285
28 Architecture and Engineering	\$851,986	\$851,986
29 State Web Site	\$224,741	\$224,741
30 Enterprise Licenses	\$33,000	\$33,000
31 Subtotal Information Technology Operations	\$4,132,061	\$4,132,061
32		
33 Information Technology Projects		
34 Government Data Analytics Center	\$3,000,000	\$4,417,515
35 IT Consolidation	\$1,021,081	\$1,021,081
36 Electronic Forms/Digital Signatures	\$900,000	\$900,000
37 Subtotal Information Technology Projects	\$4,921,081	\$6,338,596
38		
39 Total	\$9,053,142	\$10,470,657

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

45 Any changes to the specified uses shall be reported in writing to the Chairs of the
 46 Joint Legislative Oversight Committee on Information Technology, the Chair and Cochair of
 47 the House Appropriations Subcommittee on Information Technology, and the Fiscal Research
 48 Division.
 49

50 **INFORMATION TECHNOLOGY INTERNAL SERVICE FUND**

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

1 **"§ 147-33.88. Information technology budget development and reports.**

2 (a) ~~The Office shall develop an annual budget for review and approval by the Office of~~
3 ~~State Budget and Management prior to April 1 of each year.~~ The Office of Information
4 Technology Services (ITS) shall develop an annual budget for review and approval by the
5 Office of State Budget and Management (OSBM) in accordance with a schedule prescribed by
6 the Director of the Office of State Budget and Management. The approved Information
7 Technology Internal Service Fund budget shall be included in the Governor's budget
8 recommendations to the General Assembly.

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

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

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

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

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

48 **SECTION 7.2.(e)** Unspecified Uses. – Any uses of the IT Internal Service Fund
49 not specifically related to the operation of the Office of Information Technology Services, to
50 include any transfers to other State agencies, shall immediately be reported to the Office of
51 State Budget and Management and the Fiscal Research Division with a detailed explanation as

1 to why it was necessary to use the Fund. The State Chief Information Officer may use the IT
2 Internal Service Fund, and any other available resources, to accelerate desktop remediation and
3 associated software upgrades, if it is in the State's best interest.
4

5 **INFORMATION TECHNOLOGY RESERVE FUND**

6 **SECTION 7.3.(a)** Funds in the Reserve for Information Technology for the
7 2013-2014 fiscal year consist of the sum of thirty-one million dollars (\$31,000,000)
8 appropriated from the General Fund. Funds in the Reserve for Information Technology for the
9 2014-2015 fiscal year consist of the sum of thirty-six million dollars (\$36,000,000)
10 appropriated from the General Fund.

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

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

28
29 **SECTION 7.3.(c)** By August 1, 2013, the State Chief Information Officer shall
30 provide a time line for completing initiatives included in the IT Reserve Fund to the Joint
31 Legislative Oversight Committee on Information Technology, the House Appropriations
32 Subcommittee on Information Technology, and the Fiscal Research Division. The time line
33 shall include the dates for completion of a strategic plan, an enterprise architecture, a new
34 business case methodology, and implementation of a new project management process. Not
35 later than the dates specified in the time line, each of these documents shall be submitted to the
36 Joint Legislative Oversight Committee on Information Technology, the House Appropriations
37 Subcommittee on Information Technology, and the Fiscal Research Division.
38

39 **INFORMATION TECHNOLOGY OPERATIONS**

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

46 **SECTION 7.4.(b)** The Office of the State CIO shall identify information
47 technology applications that are hosted by vendors that are not backed up on State-owned
48 infrastructure. The State CIO shall work with impacted State agencies to develop a plan to
49 ensure that any State agency application hosted by a vendor is backed up on State-owned
50 infrastructure. By January 1, 2014, the State CIO shall provide a plan for accomplishing this to

1 the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research
2 Division.

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

4 "**§ 147-33.80. Exempt agencies.**

5 Except as otherwise specifically provided by law, this Article shall not apply to the General
6 ~~Assembly, the Judicial Department, or The University of North Carolina and its constituent~~
7 ~~institutions.~~ Assembly or to the Judicial Department. These agencies may elect to participate in
8 the information technology programs, services, or contracts offered by the Office, including
9 information technology procurement, in accordance with the statutes, policies, and rules of the
10 Office."

11
12 **STATEWIDE INFORMATION TECHNOLOGY PROCUREMENT**

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

20
21 **PUBLIC SCHOOL PROCUREMENT OF INFORMATION TECHNOLOGY**

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

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

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

43
44 **INFORMATION TECHNOLOGY CONTRACTS**

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

48 **SECTION 7.7.(b)** Sole Sourcing Limited. – State IT contracts, including
49 extensions of the period of performance or expansion of the scope of existing contracts, shall
50 not be sole sourced, unless the State CIO grants a specific exception to allow sole sourcing. The
51 State CIO shall immediately report any exceptions granted to the Joint Legislative Oversight

1 Committee on Information Technology and the Fiscal Research Division. The report shall
2 explain the reasons why any sole sourcing was deemed to be appropriate.

3 **SECTION 7.7.(c)** Contract Payments. – State payments under information
4 technology contracts must be in return for value received or benefits conferred to the State in
5 accordance with timely vendor performance of the contract. Therefore, all payments made by
6 the State under information technology contracts shall be linked to vendor completion of
7 specified performance standards and measures, the delivery of deliverables required under the
8 contract, or both. State information technology contracts shall include terms requiring that
9 vendors meet specific benchmarks within specified time periods. If vendors fail to meet
10 benchmarks within the specified time period, the State CIO shall suspend or terminate the
11 contract. If an agency develops a detailed risk versus reward analysis in advance that (i) is
12 reviewed and approved by the Office of the State CIO and the Office of State Budget and
13 Management and (ii) reflects industry practices, then contract payments provisions may
14 consider the level of risk that a vendor assumes under the contract.

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

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

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

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

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

48 **SECTION 7.7.(g)** Three-Year Contracts. – Notwithstanding the cash management
49 provisions of G.S. 147-86.11, the Office of Information Technology Services may procure
50 information technology goods and services for periods up to a total of three years where the
51 terms of the procurement contracts require payment of all, or a portion, of the contract price at

1 the beginning of the contract agreement. All of the following conditions shall be met before
2 payment for these agreements may be disbursed:

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

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

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

28

29 **INFORMATION TECHNOLOGY PERSONAL SERVICES CONTRACT** 30 **REQUIREMENTS**

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

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

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

49 Beginning October 1, 2013, the Statewide Information Technology Procurement
50 Office shall report to the Joint Legislative Oversight Committee on Information Technology
51 and the Fiscal Research Division on its progress toward standardizing information technology

1 personal services contracts. In addition, the report shall include detailed information on the
2 number of personal service contractors in each State agency, the cost for each, and the
3 comparable cost (including benefits) of a State employee serving in that capacity rather than a
4 contractor.

5 6 **PREVENT DUPLICATION OF INFORMATION TECHNOLOGY CAPABILITIES**

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

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

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

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

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

47 48 **GOVERNMENT DATA ANALYTICS/DATA SHARING**

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

50 "(b2) Disclosure of Social Security Number. – The social security number of an applicant
51 is not a public record. The Division may not disclose an applicant's social security number

1 except as allowed under federal law. A violation of the disclosure restrictions is punishable as
2 provided in 42 U.S.C. § 408, as amended.

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

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

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

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

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

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

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

35 **"§ 143B-426.38A. Government Data Analytics Center; State data-sharing requirements.**

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

40 (1) Creation of initiative. – In carrying out the purposes of this section, the
41 Office of the State Controller shall conduct an ongoing, comprehensive
42 evaluation of State data analytics projects and plans in order to identify data
43 integration and business intelligence opportunities that will generate greater
44 efficiencies in, and improved service delivery by, State agencies,
45 departments, and institutions. The State Controller and State CIO shall
46 continue to utilize public-private partnerships and existing data integration
47 and analytics contracts and licenses as appropriate to continue the
48 implementation of the initiative.

49 (2) Application to State government. – The initiative shall include all State
50 agencies, departments, and institutions, including The University of North
51 Carolina.

- 1 (3) Governance. – The State Controller shall lead the initiative established
2 pursuant to this section. The Chief Justice of the North Carolina Supreme
3 Court and the Legislative Services Commission each shall designate an
4 officer or agency to advise and assist the State Controller with respect to
5 implementation of the initiative in their respective branches of government.
6 The judicial and legislative branches shall fully cooperate in the initiative
7 mandated by this section in the same manner as is required of State agencies.
- 8 (b) Government Data Analytics Center. –
- 9 (1) GDAC established. – There is established in the Office of the State
10 Controller the Government Data Analytics Center (GDAC). GDAC shall
11 assume the work, purpose, and resources of the current data integration
12 effort in the Office of the State Controller and shall otherwise advise and
13 assist the State Controller in the management of the initiative. The State
14 Controller shall make any organizational changes necessary to maximize the
15 effectiveness and efficiency of GDAC.
- 16 (2) Powers and duties of the GDAC. – The State Controller shall, through the
17 GDAC, do all of the following:
- 18 a. Continue and coordinate ongoing enterprise data integration efforts,
19 including:
- 20 1. The deployment, support, technology improvements, and
21 expansion for the Criminal Justice Law Enforcement
22 Automated Data System (CJLEADS).
- 23 2. The pilot and subsequent phase initiative for the North
24 Carolina Financial Accountability and Compliance
25 Technology System (NCFACTS).
- 26 3. Individual-level student data and workforce data from all
27 levels of education and the State workforce.
- 28 4. Other capabilities developed as part of the initiative.
- 29 b. Identify technologies currently used in North Carolina that have the
30 capability to support the initiative.
- 31 c. Identify other technologies, especially those with unique capabilities,
32 that could support the State's business intelligence effort.
- 33 d. Compare capabilities and costs across State agencies.
- 34 e. Ensure implementation is properly supported across State agencies.
- 35 f. Ensure that data integration and sharing is performed in a manner
36 that preserves data privacy and security in transferring, storing, and
37 accessing data, as appropriate.
- 38 g. Immediately seek any waivers and enter into any written agreements
39 that may be required by State or federal law to effectuate data sharing
40 and to carry out the purposes of this section.
- 41 h. Coordinate data requirements and usage for State business
42 intelligence applications in a manner that (i) limits impacts on
43 participating State agencies as those agencies provide data and
44 business knowledge expertise and (ii) assists in defining business
45 rules so the data can be properly used.
- 46 i. Recommend the most cost-effective and reliable long-term hosting
47 solution for enterprise-level State business intelligence as well as
48 data integration, notwithstanding Section 6A.2(f) of S.L. 2011-145.
- 49 (c) Implementation of the Enterprise-Level Business Intelligence Initiative. –
- 50 (1) Phases of the initiative. – The initiative shall cycle through these phases on
51 an ongoing basis:

- 1 a. Phase I requirements. – In the first phase, the State Controller
2 through GDAC shall:
3 1. Inventory existing State agency business intelligence projects,
4 both completed and under development.
5 2. Develop a plan of action that does all of the following:
6 I. Defines the program requirements, objectives, and end
7 state of the initiative.
8 II. Prioritizes projects and stages of implementation in a
9 detailed plan and benchmarked time line.
10 III. Includes the effective coordination of all of the State's
11 current data integration initiatives.
12 IV. Utilizes a common approach that establishes standards
13 for business intelligence initiatives for all State
14 agencies and prevents the development of projects
15 that do not meet the established standards.
16 V. Determines costs associated with the development
17 efforts and identifies potential sources of funding.
18 VI. Includes a privacy framework for business
19 intelligence consisting of adequate access controls and
20 end user security requirements.
21 VII. Estimates expected savings.
22 3. Inventory existing external data sources that are purchased by
23 State agencies to determine whether consolidation of licenses
24 is appropriate for the enterprise.
25 4. Determine whether current, ongoing projects support the
26 enterprise-level objectives.
27 5. Determine whether current applications are scalable or are
28 applicable for multiple State agencies or both.
29 b. Phase II requirements. – In the second phase, the State Controller
30 through the GDAC shall:
31 1. Identify redundancies and recommend to the State CIO any
32 projects that should be discontinued.
33 2. Determine where gaps exist in current or potential
34 capabilities.
35 c. Phase III requirements. – In the third phase:
36 1. The State Controller through GDAC shall incorporate or
37 consolidate existing projects, as appropriate.
38 2. The State Controller shall, notwithstanding G.S. 147-33.76 or
39 any rules adopted pursuant thereto, eliminate redundant
40 business intelligence projects, applications, software, and
41 licensing.
42 3. The State Controller through GDAC shall complete all
43 necessary steps to ensure data integration in a manner that
44 adequately protects privacy.
45 (2) Project Management. – The State CIO shall ensure that all current and new
46 business intelligence/data analytics projects are in compliance with all State
47 laws, policies, and rules pertaining to information technology procurement,
48 project management, and project funding and that they include quantifiable
49 and verifiable savings to the State. The State CIO shall report to the Joint
50 Legislative Oversight Committee on Information Technology on projects

1 that are not achieving projected savings. The report shall include a proposed
2 corrective action plan for the project.

3 The Office of the State CIO, with the assistance of the Office of State
4 Budget and Management, shall identify potential funding sources for
5 expansion of existing projects or development of new projects. No GDAC
6 project shall be initiated, extended, or expanded:

7 a. Without the specific approval of the General Assembly unless the
8 project can be implemented within funds appropriated for GDAC
9 projects.

10 b. Without prior consultation to the Joint Legislative Commission on
11 Governmental Operations and a report to the Joint Legislative
12 Oversight Committee on Information Technology, if the project can
13 be implemented within funds appropriated for GDAC projects.

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

23 (d1) Appropriations. – Of the funds appropriated to the Information Technology Fund,
24 the sum of three million dollars (\$3,000,000) for the 2013-2014 fiscal year and the sum of four
25 million four hundred seventeen thousand five hundred fifteen dollars (\$4,417,515) for the
26 2014-2015 fiscal year shall be used to support the GDAC and NCFACTS. Of these funds, the
27 sum of one million four hundred seventeen thousand five hundred fifteen dollars (\$1,417,515)
28 shall be used in each fiscal year of the 2013-2015 biennium for OSC internal costs. For fiscal
29 year 2014-2015, of the funds generated by GDAC and NCFACTS projects and returned to the
30 General Fund, the sum of up to five million dollars (\$5,000,000) is appropriated to fund GDAC
31 and NCFACTS, to include vendor payments. Prioritization for the expenditure of these funds
32 shall be for State costs associated with GDAC first, then vendor costs second. Funds in the
33 2013-2015 fiscal year budgets for GDAC and NCFACTS shall be used solely to support the
34 continuation for these priority project areas.

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

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

47 (2) Report the following information as needed:

48 a. Any failure of a State agency to provide information requested
49 pursuant to this section. The failure shall be reported to the Joint
50 Legislative Oversight Committee on Information Technology and to

- 1 the Chairs of the House of Representatives Appropriations and
2 Senate Base Budget/Appropriations Committees.
- 3 b. Any additional information to the Joint Legislative Commission on
4 Governmental Operations and the Joint Legislative Oversight
5 Committee on Information Technology that is requested by those
6 entities.
- 7 (f) Data Sharing. –
- 8 (1) General duties of all State agencies. – The head of each State agency,
9 department, and institution shall do all of the following:
- 10 a. Grant the Office of the State Controller access to all information
11 required to develop and support State business intelligence
12 applications pursuant to this section. The State Controller and the
13 GDAC shall take all necessary actions and precautions, including
14 training, certifications, background checks, and governance policy
15 and procedure, to ensure the security, integrity, and privacy of the
16 data in accordance with State and federal law and as may be required
17 by contract.
- 18 b. Provide complete information on the State agency's information
19 technology, operational, and security requirements.
- 20 c. Provide information on all of the State agency's information
21 technology activities relevant to the State business intelligence effort.
- 22 d. Forecast the State agency's projected future business intelligence
23 information technology needs and capabilities.
- 24 e. Ensure that the State agency's future information technology
25 initiatives coordinate efforts with the GDAC to include planning and
26 development of data interfaces to incorporate data into the initiative
27 and to ensure the ability to leverage analytics capabilities.
- 28 f. Provide technical and business resources to participate in the
29 initiative by providing, upon request and in a timely and responsive
30 manner, complete and accurate data, business rules and policies, and
31 support.
- 32 g. Identify potential resources for deploying business intelligence in
33 their respective State agencies and as part of the enterprise-level
34 effort.
- 35 h. Immediately seek any waivers and enter into any written agreements
36 that may be required by State or federal law to effectuate data sharing
37 and to carry out the purposes of this section, as appropriate.
- 38 (2) Specific requirements. – The State Controller and the GDAC shall enhance
39 the State's business intelligence through the collection and analysis of data
40 relating to workers' compensation claims for the purpose of preventing and
41 detecting fraud, as follows:
- 42 a. The North Carolina Industrial Commission shall release to GDAC, or
43 otherwise provide electronic access to, all data requested by GDAC
44 relating to workers' compensation insurance coverage, claims,
45 appeals, compliance, and enforcement under Chapter 97 of the
46 General Statutes.
- 47 b. The North Carolina Rate Bureau (Bureau) shall release to GDAC, or
48 otherwise provide electronic access to, all data requested by GDAC
49 relating to workers' compensation insurance coverage, claims,
50 business ratings, and premiums under Chapter 58 of the General
51 Statutes. The Bureau shall be immune from civil liability for

- 1 releasing information pursuant to this subsection, even if the
2 information is erroneous, provided the Bureau acted in good faith
3 and without malicious or willful intent to harm in releasing the
4 information.
- 5 c. The Department of Commerce, Division of Employment Security
6 (DES), shall release to GDAC, or otherwise provide access to, all
7 data requested by GDAC relating to unemployment insurance
8 coverage, claims, and business reporting under Chapter 96 of the
9 General Statutes.
- 10 d. The Department of Labor shall release to GDAC, or otherwise
11 provide access to, all data requested by GDAC relating to safety
12 inspections, wage and hour complaints, and enforcement activities
13 under Chapter 95 of the General Statutes.
- 14 e. The Department of Revenue shall release to GDAC, or otherwise
15 provide access to, all data requested by GDAC relating to the
16 registration and address information of active businesses, business
17 tax reporting, and aggregate federal tax Form 1099 data for
18 comparison with information from DES, the Rate Bureau, and the
19 Department of the Secretary of State for the evaluation of business
20 reporting. Additionally, the Department of Revenue shall furnish to
21 the GDAC, upon request, other tax information, provided that the
22 information furnished does not impair or violate any
23 information-sharing agreements between the Department and the
24 United States Internal Revenue Service. Notwithstanding any other
25 provision of law, a determination of whether furnishing the
26 information requested by GDAC would impair or violate any
27 information-sharing agreements between the Department of Revenue
28 and the United States Internal Revenue Service shall be within the
29 sole discretion of the State Chief Information Officer. The
30 Department of Revenue and the Office of the State Controller shall
31 work jointly to assure that the evaluation of tax information pursuant
32 to this subdivision is performed in accordance with applicable federal
33 law.
- 34 (3) All information shared with GDAC and the State Controller under this
35 subdivision is protected from release and disclosure in the same manner as
36 any other information is protected under this section.
- 37 (g) Provisions on Privacy and Confidentiality of Information. –
- 38 (1) Status with respect to certain information. – The State Controller and the
39 GDAC shall be deemed to be all of the following for the purposes of this
40 section:
- 41 a. With respect to criminal information, and to the extent allowed by
42 federal law, a criminal justice agency (CJA), as defined under
43 Criminal Justice Information Services (CJIS) Security Policy. The
44 State CJIS Systems Agency (CSA) shall ensure that CJLEADS
45 receives access to federal criminal information deemed to be
46 essential in managing CJLEADS to support criminal justice
47 professionals.
- 48 b. With respect to health information covered under the Health
49 Insurance Portability and Accountability Act of 1996 (HIPAA), as
50 amended, and to the extent allowed by federal law:

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

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

read:

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

SECTION 7.10.(f) The Office of State Controller, in consultation with the State CIO, shall continue the management and implementation of the GDAC, and shall continue to manage the ongoing enterprise data integration efforts under the GDAC including CJLEADS and NC FACTS. The Office of the State CIO, in consultation with OSC, shall develop a plan for a cooperative transition of the GDAC and all of its programs to the Office of the SCIO,

1 effective July 1, 2014. The plan shall include provisions for a governance structure for GDAC
2 that includes participation by the State Controller. The plan shall also include milestones for the
3 transition. The State CIO shall report the plan details and any associated costs to the Joint
4 Legislative Oversight Committee on Information Technology and the Fiscal Research Division
5 by no later than October 1, 2013. The State CIO shall also report on a quarterly basis to the
6 Joint Legislative Oversight Committee on Information Technology and the Fiscal Research
7 Division on progress toward achieving milestones set out in the plan.

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

13 **SECTION 7.10.(h)** The purpose of this section is to codify provisions of Section
14 6A.7A of S.L. 2012-142, and to the extent that any provision of that section conflicts with
15 G.S. 143B-426.38A, as enacted by this act, the provisions of the statute shall be construed to
16 prevail over any conflicting uncodified provisions.

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

18 **STATE INFORMATION TECHNOLOGY DATA ARCHIVING**

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

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

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

32 **INFORMATION TECHNOLOGY/PRIVACY PROTECTION OF CITIZEN DATA**

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

39 **STATE INFORMATION TECHNOLOGY INNOVATION CENTER**

40 **SECTION 7.13.** The State Chief Information Officer (CIO) may operate a State
41 Information Technology Innovation Center (Center) to develop and demonstrate technology
42 solutions with potential benefit to the State and its citizens. The Center may facilitate the
43 piloting of potential solutions to State technology requirements. In operating the Center, the
44 State CIO shall ensure that all State laws, rules, and policies are followed. Vendor participation
45 in the Center shall not be construed to (i) create any type of preferred status for vendors or (ii)
46 abrogate the requirement that the State CIO ensure that agency and statewide requirements for
47 information technology support (including those for the Office of the State CIO and the Office
48 of Information Technology Services) are awarded based on a competitive process that follows
49
50
51

1 information technology procurement guidelines. Beginning July 1, 2013, the State CIO shall
2 report to the Joint Legislative Oversight Committee on Information Technology on a quarterly
3 basis on initiatives being developed and implemented within the Center, as well as on the
4 sources and amounts of resources used to support the Center.

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

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

11 12 **ENTERPRISE GRANTS MANAGEMENT**

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

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

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

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

- 38 (1) Agencies currently participating in the system.
- 39 (2) Specific requirements for each agency project included in the system
40 development.
- 41 (3) Cost and funding sources for each agency participating in the system.
- 42 (4) Status of each agency project included in the system.
- 43 (5) Comparison of the status of each project to the project's time line, with an
44 explanation of any differences.
- 45 (6) Detailed descriptions of milestones completed that quarter and to be
46 completed the next quarter.
- 47 (7) Any changes in project cost for any participating agency, the reason for the
48 change, and the source of funding, if there is a cost increase.
- 49 (8) Actual project expenditures by agency, to date, and during that quarter.
- 50 (9) Any potential funding shortfalls, and their impact.

- 1 (10) Any issues identified during the quarter, with a corrective action plan and a
- 2 time line for resolving each issue.
- 3 (11) Impact of any issues on schedule or cost.
- 4 (12) Any changes to agency projects, or the system as a whole.
- 5 (13) Any change requests and their costs.
- 6

7 ENTERPRISE ELECTRONIC FORMS AND DIGITAL SIGNATURES

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

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

24 VEHICLE MANAGEMENT

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

- 33 (1) Consult with State agencies that own vehicles.
- 34 (2) Review the existing fleet management information systems used by State
- 35 agencies.
- 36 (3) Examine fleet management information systems used by other state
- 37 governments.
- 38 (4) Determine whether the State should (i) expand a fleet management
- 39 information system currently used by a State agency for statewide use, (ii)
- 40 develop a new in-house system, or (iii) purchase a new system from an
- 41 outside vendor.
- 42 (5) Determine fees or other methods to pay the initial and ongoing costs for the
- 43 system.
- 44

45 **SECTION 7.16.(b)** The Office of State Budget and Management shall assist and
46 advise the Office of the State Chief Information Officer in developing the implementation plan
47 and work with State agencies and institutions to identify funding from current and proposed
48 projects and applications that could be used to support the development and implementation of
49 the statewide motor fleet management system. The Office of State Controller shall assist and
50 advise the Office of the State Chief Information Officer in developing the implementation plan

1 for the statewide motor fleet management information system, including how the system
2 interfaces with the statewide accounting system.

3 **SECTION 7.16.(c)** Beginning October 1, 2013, the State CIO shall report to the
4 Joint Legislative Oversight Committee on Information Technology and the Fiscal Research
5 Division on the implementation plan for the statewide motor fleet management information
6 system including progress toward the development of the enterprise system, the associated
7 costs, identified sources of funding, and any issues associated with the project.

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

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

- 20 (1) "Unmanned aircraft" means an aircraft that is operated without the
21 possibility of human intervention from within or on the aircraft.
22 (2) "Unmanned aircraft system" means an unmanned aircraft and associated
23 elements, including communication links and components that control the
24 unmanned aircraft that are required for the pilot in command to operate
25 safely and efficiently in the national airspace system.

26 **SECTION 7.16.(f)** If the State Chief Information Officer determines that there is a
27 requirement for unmanned aircraft systems for use by State or local agencies, planning may
28 begin for the possible development, implementation, and operation of an unmanned aircraft
29 system program within the State of North Carolina. This planning effort shall be accomplished
30 in coordination with the Chief Information Officer for the Department of Transportation and
31 the DOT Aviation Division Director. If the State CIO decides to plan for an unmanned aircraft
32 system program, a proposal for the implementation of the program shall be provided by March
33 1, 2014, to the Joint Legislative Oversight Committee on Information Technology, the Joint
34 Transportation Legislative Oversight Committee, and the Fiscal Research Division. At a
35 minimum, the proposal shall include the following:

- 36 (1) Governance structure to include the appropriate use at each level of
37 government.
38 (2) Guidelines for program implementation to include limitations on unmanned
39 aircraft system use.
40 (3) Potential participants.
41 (4) Costs associated with establishing a program.
42 (5) Potential sources of funding.
43 (6) Issues associated with establishing a program to include limitations on
44 entities that may already have purchased unmanned aircraft systems.
45 (7) Recommendations for legislative proposals.
46

47 **TAX INFORMATION MANAGEMENT SYSTEM/ADDITIONAL PUBLIC-PRIVATE** 48 **PARTNERSHIP AUTHORIZED**

49 **SECTION 7.17.(a)** Additional Public-Private Partnership. – The Secretary of
50 Revenue may enter into an additional public-private arrangement in order to expand the
51 implementation of the Tax Information Management System (TIMS). All such arrangements

1 will terminate June 30, 2018. The public-private arrangement may include terms necessary to
2 implement additional revenue-increasing or cost-savings components if all of the following
3 conditions are met:

- 4 (1) The funding of the project under the arrangement comes from revenue
5 generated by or cost savings resulting from the project.
- 6 (2) The funding of the project is dependent on increased-revenue or cost-savings
7 streams that are different from the existing benefits stream for the
8 implementation of TIMS.
- 9 (3) The project involves additional identified initiatives that will be integrated
10 into the TIMS solution.

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

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

- 22 (1) Calculation of a revenue baseline against which the increased revenue
23 attributable to the project is measured and a cost-basis baseline against
24 which the cost savings resulting from the project are measured.
- 25 (2) Periodic evaluation to determine whether the baselines need to be modified
26 based on significant measurable changes in the economic environment.
- 27 (3) Monthly calculation of increased revenue and cost savings attributable to
28 contracts executed under this section.

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

37 **SECTION 7.17.(e) Internal Costs.** – For the 2013-2015 fiscal biennium the
38 Department of Revenue may retain an additional sum of eight million eight hundred
39 seventy-four thousand three hundred nineteen dollars (\$8,874,319) from benefits generated for
40 the General Fund since the beginning of the public-private partnership described under Section
41 6A.5(a) of S.L. 2011-145. These funds shall be used as payment of internal costs for the fiscal
42 biennium, and such funds are hereby appropriated for this purpose.

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

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

1 **SECTION 7.17.(h)** Reporting. – Beginning August 1, 2013, and quarterly
2 thereafter, the Department of Revenue shall submit detailed written reports to the Chairs of the
3 House of Representatives Appropriations Committee, to the Chairs of the Senate Committee on
4 Appropriations/Base Budget, to the Joint Legislative Oversight Committee on Information
5 Technology, and to the Fiscal Research Division of the General Assembly. The report shall
6 include an explanation of all of the following:

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

14 **SECTION 7.17.(i)** Information Technology Project Oversight. – In addition to the
15 oversight provided by the Oversight Committee established in Section 6A.5(c) of S.L.
16 2011-145, the additional public-private arrangement authorized by this section shall be subject
17 to existing State information technology project oversight laws and statutes, and the project
18 management shall comply with all statutory requirements and other criteria established by the
19 State Chief Information Officer and the Office of State Budget and Management for
20 information technology projects. The State Chief Information Officer and the Office of State
21 Budget and Management shall immediately report any failure to do so to the Joint Legislative
22 Oversight Committee on Information Technology, the Chairs of the House of Representatives
23 and Senate Committees on Appropriations, and the Fiscal Research Division.

24 **SECTION 7.17.(j)** Section 6A.5(c) of S.L. 2011-145, as amended by Section
25 6A.3(j) of S.L. 2012-142 reads as rewritten:

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

39 The members of the Committee shall include the following:

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

1 The State Budget Director shall serve as chair of the Committee. The Committee shall set
2 its meeting schedule and adopt its rules of operation by majority vote. A majority of the
3 members constitutes a quorum. Vacancies shall be filled by the appointing authority.
4 Administrative support staff shall be provided by the Department of Revenue. Members of the
5 Committee shall receive reimbursements for subsistence and travel expenses as provided by
6 Chapter 138 of the General Statutes. The Committee shall terminate on June 30, 2018.

7 The Department shall provide copies of the minutes of each meeting and all associated
8 information to the Joint Legislative Oversight Committee on Information Technology, the
9 Chairs of the House of Representatives Appropriations Committee, the Chairs of the Senate
10 Committee on Appropriations/Base Budget, and the Fiscal Research Division."
11

12 **USE OF MOBILE COMMUNICATIONS DEVICES**

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

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

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

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

33 **SECTION 7.18.(d)** The Office of the State CIO shall develop a policy for
34 implementing a "bring your own device" plan for State employees. By September 1, 2013, the
35 State CIO shall report to the Joint Legislative Oversight Committee on Information Technology
36 and the Fiscal Research Division on how the plan is to be implemented, as well as on potential
37 issues and costs. Following consultation with the Joint Legislative Oversight Committee on
38 Information Technology, the State CIO may implement the "bring you own device" plan.
39

40 **NEXT GENERATION SECURE DRIVER LICENSE SYSTEM**

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

- 47 (1) Original project scope, deliverables, and milestones, including descriptions
48 of any subsequent modifications and basis for each.
- 49 (2) Contractual status and amendments.
- 50 (3) Initial and current estimated costs for system development, implementation,
51 and maintenance.

- 1 (4) Remaining deliverables and cost to complete by phase.
- 2 (5) Any issues, including vendor performance, identified during project
- 3 development and implementation and planned corrective actions for each
- 4 issue.
- 5 (6) Programmatic impacts for Division of Motor Vehicles driver license
- 6 services.
- 7 (7) Requirements and costs to implement a process to allow persons who are
- 8 homebound to apply for or renew a special photo identification card, with a
- 9 color photo, and similar in size, shape, design, and background to a drivers
- 10 license, by means other than personal appearance.

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

17

18 **STATE TITLING AND REGISTRATION SYSTEM/STATE AUTOMATED DRIVER**

19 **LICENSE SYSTEM/LIABILITY INSURANCE TRACKING AND ENFORCEMENT**

20 **SYSTEM**

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

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

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

41

42 **GDAC/LOCAL GOVERNMENTS/COLLECTION AGREEMENTS**

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

- 47 (1) Comply with State or federal law regarding data sharing, as appropriate.
- 48 (2) Provide the GDAC with access to all required information necessary to
- 49 develop and support analytics allowing the identification of the owners of
- 50 vehicles with associated unpaid parking fines and penalties.

1 (3) Provide for technical and business resources to support the analytics
2 development.

3 (4) Provide for timely and responsive access to complete and accurate data,
4 business rules, policies and technical support.

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

7 (1) Ensure the security, integrity, and privacy of the data in accordance with
8 State and federal law and as may be required by contract.

9 (2) Leverage enterprise data sources, as allowed by State and federal law, and
10 GDAC governance agreements, to provide analytics to integrate and match
11 data to identify owner information associated with vehicles with unpaid
12 parking fines and penalties.

13 (3) Provide access to analytics reporting and information to the participating city
14 or municipality and the Department of Revenue.

15 (4) Provide data to the Department of Revenue for use in the withholding of tax
16 refunds of persons that have unpaid parking fines and penalties.

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

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

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

28 29 **PART VIII. PUBLIC SCHOOLS**

30 31 **FUNDS FOR CHILDREN WITH DISABILITIES**

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

40 41 **FUNDS FOR ACADEMICALLY GIFTED CHILDREN**

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

USE OF SUPPLEMENTAL FUNDING IN LOW-WEALTH COUNTIES

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

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

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

- 1 (7) "County-adjusted property tax base per square mile" means the
2 county-adjusted property tax base divided by the number of square miles of
3 land area in the county.
- 4 (8) "County wealth as a percentage of State average wealth" shall be computed
5 as follows:
6 a. For counties containing a base of the Armed Forces of the United
7 States that have an average daily membership of more than 23,000
8 students:
9 1. Compute the percentage that the county per capita income is
10 of the State per capita income and weight the resulting
11 percentage by a factor of four-tenths.
12 2. Compute the percentage that the anticipated total county
13 revenue availability per student is of the anticipated State
14 average revenue availability per student and weight the
15 resulting percentage by a factor of five-tenths.
16 3. Compute the percentage that the county-adjusted property tax
17 base per square mile is of the State-adjusted property tax base
18 per square mile and weight the resulting percentage by a
19 factor of one-tenth.
20 4. Add the three weighted percentages to derive the county
21 wealth as a percentage of the State average wealth.
22 b. For all other counties in the State:
23 1. Compute the percentage that the county per capita income is
24 of the State per capita income and weight the resulting
25 percentage by a factor of five-tenths.
26 2. Compute the percentage that the anticipated total county
27 revenue availability per student is of the anticipated State
28 average revenue availability per student and weight the
29 resulting percentage by a factor of four-tenths.
30 3. Compute the percentage that the county-adjusted property tax
31 base per square mile is of the State-adjusted property tax base
32 per square mile and weight the resulting percentage by a
33 factor of one-tenth.
34 4. Add the three weighted percentages to derive the county
35 wealth as a percentage of the State average wealth.
- 36 (9) "Effective county tax rate" means the actual county tax rate multiplied by a
37 weighted average of the three most recent annual sales assessment ratio
38 studies.
- 39 (10) "Effective State average tax rate" means the average of effective county tax
40 rates for all counties.
- 41 (11) "Local current expense funds" means the most recent county current expense
42 appropriations to public schools, as reported by local boards of education in
43 the audit report filed with the Secretary of the Local Government
44 Commission pursuant to G.S. 115C-447.
- 45 (12) "Per capita income" means the average for the most recent three years for
46 which data are available of the per capita income according to the most
47 recent report of the United States Department of Commerce, Bureau of
48 Economic Analysis, including any reported modifications for prior years as
49 outlined in the most recent report.
- 50 (13) "Sales assessment ratio studies" means sales assessment ratio studies
51 performed by the Department of Revenue under G.S. 105-289(h).

- 1 (14) "State average current expense appropriations per student" means the most
2 recent State total of county current expense appropriations to public schools,
3 as reported by local boards of education in the audit report filed with the
4 Secretary of the Local Government Commission pursuant to G.S. 115C-447.
- 5 (15) "State average adjusted property tax base per square mile" means the sum of
6 the county-adjusted property tax bases for all counties divided by the
7 number of square miles of land area in the State.
- 8 (16) "Supplant" means to decrease local per student current expense
9 appropriations from one fiscal year to the next fiscal year.
- 10 (17) "Weighted average of the three most recent annual sales assessment ratio
11 studies" means the weighted average of the three most recent annual sales
12 assessment ratio studies in the most recent years for which county current
13 expense appropriations and adjusted property tax valuations are available. If
14 real property in a county has been revalued one year prior to the most recent
15 sales assessment ratio study, a weighted average of the two most recent sales
16 assessment ratios shall be used. If property has been revalued the year of the
17 most recent sales assessment ratio study, the sales assessment ratio for the
18 year of revaluation shall be used.

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

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

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

43 **SECTION 8.3.(f)** Minimum Effort Required. – Counties that had effective tax
44 rates in the 1996-1997 fiscal year that were above the State average effective tax rate but that
45 had effective rates below the State average in the 1997-1998 fiscal year or thereafter shall
46 receive reduced funding under this section. This reduction in funding shall be determined by
47 subtracting the amount that the county would have received pursuant to Section 17.1(g) of
48 Chapter 507 of the 1995 Session Laws from the amount that the county would have received if
49 qualified for full funding and multiplying the difference by ten percent (10%). This method of
50 calculating reduced funding shall apply one time only. This method of calculating reduced
51 funding shall not apply in cases in which the effective tax rate fell below the statewide average

1 effective tax rate as a result of a reduction in the actual property tax rate. In these cases, the
2 minimum effort required shall be calculated in accordance with Section 17.1(g) of Chapter 507
3 of the 1995 Session Laws. If the county documents that it has increased the per student
4 appropriation to the school current expense fund in the current fiscal year, the State Board of
5 Education shall include this additional per pupil appropriation when calculating minimum
6 effort pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws.

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

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

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

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

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

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

39 **SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING**

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

- 49 (1) Round all fractions of positions to the next whole position.

- 1 (2) Provide five and one-half additional regular classroom teachers in counties
2 in which the average daily membership per square mile is greater than four
3 and provide seven additional regular classroom teachers in counties in which
4 the average daily membership per square mile is four or fewer.
- 5 (3) Provide additional program enhancement teachers adequate to offer the
6 standard course of study.
- 7 (4) Change the duty-free period allocation to one teacher assistant per 400
8 average daily membership.
- 9 (5) Provide a base for the consolidated funds allotment of at least seven hundred
10 seventeen thousand three hundred sixty dollars (\$717,360), excluding
11 textbooks, for the 2013-2014 fiscal year and a base of seven hundred
12 seventeen thousand three hundred sixty dollars (\$717,360) for the 2014-2015
13 fiscal year.
- 14 (6) Allot vocational education funds for grade six as well as for grades seven
15 through 12. If funds appropriated for each fiscal year for small school
16 system supplemental funding are not adequate to fully fund the program, the
17 State Board of Education shall reduce the amount allocated to each county
18 school administrative unit on a pro rata basis. This formula is solely a basis
19 for distribution of supplemental funding for certain county school
20 administrative units and is not intended to reflect any measure of the
21 adequacy of the educational program or funding for public schools. The
22 formula also is not intended to reflect any commitment by the General
23 Assembly to appropriate any additional supplemental funds for such county
24 administrative units.

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

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

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

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

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

- 49 (1) "Average daily membership" means within two percent (2%) of the average
50 daily membership as defined in the North Carolina Public Schools Allotment
51 Policy Manual adopted by the State Board of Education.

- 1 (2) "County-adjusted property tax base per student" means the total assessed
2 property valuation for each county, adjusted using a weighted average of the
3 three most recent annual sales assessment ratio studies, divided by the total
4 number of students in average daily membership who reside within the
5 county.
- 6 (3) "Local current expense funds" means the most recent county current expense
7 appropriations to public schools, as reported by local boards of education in
8 the audit report filed with the Secretary of the Local Government
9 Commission pursuant to G.S. 115C-447.
- 10 (4) "Sales assessment ratio studies" means sales assessment ratio studies
11 performed by the Department of Revenue under G.S. 105-289(h).
- 12 (5) "State-adjusted property tax base per student" means the sum of all
13 county-adjusted property tax bases divided by the total number of students in
14 average daily membership who reside within the State.
- 15 (6) "Supplant" means to decrease local per student current expense
16 appropriations from one fiscal year to the next fiscal year.
- 17 (7) "Weighted average of the three most recent annual sales assessment ratio
18 studies" means the weighted average of the three most recent annual sales
19 assessment ratio studies in the most recent years for which county current
20 expense appropriations and adjusted property tax valuations are available. If
21 real property in a county has been revalued one year prior to the most recent
22 sales assessment ratio study, a weighted average of the two most recent sales
23 assessment ratios shall be used. If property has been revalued during the year
24 of the most recent sales assessment ratio study, the sales assessment ratio for
25 the year of revaluation shall be used.

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

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

33 Local school administrative units may also utilize funds allocated under this section
34 to purchase services that allow for extraction of data from the Education Value-Added
35 Assessment System (EVAAS).
36

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

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

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

48 The State Board of Education may require local school administrative units
49 receiving funding under the Disadvantaged Student Supplemental Fund to purchase the
50 Education Value-Added Assessment System (EVAAS) in order to provide in-depth analysis of
51 student performance and help identify strategies for improving student achievement. This data

1 shall be used exclusively for instructional and curriculum decisions made in the best interest of
2 children and for professional development for their teachers and administrators.

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

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

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

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

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

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

30 **LITIGATION RESERVE FUNDS**

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

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

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

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

40 **REVISE NC VIRTUAL PUBLIC SCHOOLS (NCVPS) COST CALCULATION DATE**

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

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

46 **CLOSE NC CENTER FOR THE ADVANCEMENT OF TEACHING**

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

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

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

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

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

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

15

16 **SCHOOL BUS REPLACEMENT**

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

20

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

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

29

30 **EVAAS SCHOOL PERFORMANCE GRADES**

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

34

35 **LEA BUDGETARY FLEXIBILITY**

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

37 **"§ 115C-105.25. Budget flexibility.**

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

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

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

1 building-level staff entitled to vote on the plan or the affected teacher
2 assistant positions are not expected to be filled on the date the plan is to be
3 implemented. Any State funds appropriated for teacher assistants that were
4 converted to certificated teachers before July 1, 1995, in accordance with
5 Section 1 of Chapter 986 of the 1991 Session Laws, as rewritten by Chapter
6 103 of the 1993 Session Laws, may continue to be used for certificated
7 teachers.

8 (1a) Funds for children with disabilities, career and technical education, and other
9 purposes may be transferred only as permitted by federal law and the
10 conditions of federal grants or as provided through any rules that the State
11 Board of Education adopts to ensure compliance with federal regulations.

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

20 (2a) ~~Up to three percent (3%) of State funds allocated for noninstructional~~
21 ~~support personnel may be transferred for staff development.~~

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

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

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

30 (5a) ~~Positions allocated for classroom teachers may be converted to dollar~~
31 ~~equivalents to contract for visiting international exchange teachers. These~~
32 ~~positions shall be converted at the statewide average salary for classroom~~
33 ~~teachers, including benefits. The converted funds shall be used only to cover~~
34 ~~the costs associated with bringing visiting international exchange teachers to~~
35 ~~the local school administrative unit through a State-approved visiting~~
36 ~~international exchange teacher program and supporting the visiting exchange~~
37 ~~teachers.~~

38 (5b) Except as provided in subdivision (5a) of this subsection, positions allocated
39 for classroom teachers and instructional support personnel may be converted
40 to dollar equivalents for any purpose authorized by the policies of the State
41 Board of Education. These positions shall be converted at the salary on the
42 first step of the "A" Teachers Salary Schedule. Certified position allotments
43 shall not be transferred to dollars to hire the same type of position.

44 (5c) Funds allocated for school building administration may be converted for any
45 purpose authorized by the policies of the State Board of Education. For
46 funds related to principal positions, the salary transferred shall be based on
47 the first step of the Principal III Salary Schedule. For funds related to
48 assistant principal months of employment, the salary transferred shall be
49 based on the first step of the Assistant Principal Salary Schedule. Certified
50 position allotments shall not be transferred to dollars to hire the same type of
51 position.

- 1 (6) ~~Funds allocated for vocational education may be transferred only in~~
2 ~~accordance with any rules that the State Board of Education considers~~
3 ~~appropriate to ensure compliance with federal regulations.~~
4 (7) ~~Funds allocated for career development shall be used in accordance with~~
5 ~~Section 17.3 of Chapter 324 of the 1995 Session Laws.~~
6 (8) ~~Funds allocated for academically or intellectually gifted students may be~~
7 ~~used only (i) for academically or intellectually gifted students; (ii) to~~
8 ~~implement the plan developed under G.S. 115C-150.7; or (iii) in accordance~~
9 ~~with an accepted school improvement plan, for any purpose so long as that~~
10 ~~school demonstrates it is providing appropriate services to academically or~~
11 ~~intellectually gifted students assigned to that school in accordance with the~~
12 ~~local plan developed under G.S. 115C-150.7.~~
13 (9) ~~Funds allocated in the Alternative Schools/At-Risk Student allotment shall~~
14 ~~be spent only for alternative learning programs, at risk students, and school~~
15 ~~safety programs.~~
16 (10) Funds to carry out the elements of the Excellent Public Schools Act, which
17 are contained in Section 7A.1 of S.L. 2012-142, shall not be transferred.

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

- 21 (1) A description of each program report code, written in plain English, and a
22 summary of the prior fiscal year's expenditure of State funds within each
23 program report code.
24 (2) A description of each object code within a program report code, written in
25 plain English, and a summary of the prior fiscal year's expenditure of State
26 funds for each object code.
27 (3) A description of each allotment transfer that increased or decreased the
28 initial allotment amount by more than five percent (5%) and the educational
29 priorities that necessitated the transfer."

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

31 **"§ 115C-301. Allocation of teachers; class size.**

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

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

38 (c) ~~Maximum-Class Size. – Local school administrative units shall have the maximum~~
39 ~~flexibility to use allotted teacher positions to maximize student achievement. The average class~~
40 ~~size for each grade span in a local school administrative unit shall at no time exceed the funded~~
41 ~~allotment ratio of teachers to students. At the end of the second school month and for the~~
42 ~~remainder of the school year, the size of an individual class shall not exceed the allotment ratio~~
43 ~~by more than three students. At no time may the General Assembly appropriate funds for~~
44 ~~higher unit wide class averages than those for which State funds were provided during the~~
45 ~~1984-85 school year.~~

46 (d) ~~Maximum Teaching Load. – Students shall be assigned to classes so that from the~~
47 ~~15th day of the school year through the end of the school year the number of students for whom~~
48 ~~teachers in grades 7 through 12 are assigned teaching responsibilities during the course of the~~
49 ~~day is no more than 150 students, except as provided in subsection (g) of this section.~~

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

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

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

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

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

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

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

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

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

29 **"§ 115C-47. Powers and duties generally.**

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

32 ...
33 (10) To Assure Appropriate Class Size. – It shall be the responsibility of local
34 boards of education to assure that the teacher positions allotted by the State
35 are used to maximize student achievement ~~class size and teaching load~~
36 ~~requirements set forth in G.S. 115C-301 are met. Any teacher who believes~~
37 ~~that the requirements of G.S. 115C-301 have not been met shall make a~~
38 ~~report to the principal and superintendent, and the superintendent shall~~
39 ~~immediately determine whether the requirements have in fact not been met.~~
40 ~~If the superintendent determines the requirements have not been met, he~~
41 ~~shall make a report to the next local board of education meeting. The local~~
42 ~~board of education shall take action to meet the requirements of the statute.~~
43 ~~If the local board cannot organizationally correct the exception and if any of~~
44 ~~the conditions set out in G.S. 115C-301(g)(1) exist, it shall immediately~~
45 ~~apply to the State Board of Education for additional personnel or a waiver of~~
46 ~~the class size requirements, as provided in G.S. 115C-301(g).~~

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

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

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

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

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

23 24 **RESIDENTIAL SCHOOLS**

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

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

34 35 **EXCELLENT PUBLIC SCHOOLS ACT/SUMMER READING CAMPS**

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

39 40 **PARTICIPATION IN COMMUNITIES IN SCHOOLS LEARNING INITIATIVE**

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

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

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

3 4 **INSTRUCTIONAL IMPROVEMENT SYSTEM**

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

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

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

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

20 21 **STUDY OF GPA CALCULATIONS**

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

28 29 **REGIONAL SCHOOL BOARDS**

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

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

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

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

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

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

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

11 (5) Higher education partners. – Any institution of higher education partner may
12 appoint a representative of the institution of higher education to serve as an
13 ex officio member of the board of directors."
14

15 **TEACH FOR AMERICA EXPANSION AND NC TEACHER CORPS**

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

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

26 a. In the Piedmont Triad region, at least 50 candidates who will be
27 recruited in the 2013-2014 school year to begin teaching in the
28 2014-2015 school year.

29 b. In the southeast region of the State, at least 50 candidates to begin
30 teaching in the 2013-2014 school year.

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

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

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

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

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

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

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

32 **SECTION 8.21.(c)** Effective July 1, 2014, G.S. 115C-296.7 is amended by adding
33 a new subsection to read:

34 "(h) The State Board of Education is authorized to contract for the administration of the
35 NC Teacher Corps."

36 **SECTION 8.21.(c1)** The State Board of Education shall enter into a contract,
37 effective July 1, 2014, with Teach for America, Inc., (TFA) to administer provisions of
38 G.S. 115C-296.7. The contract shall require that TFA make publicly available all documents
39 related to the execution of this program and the expenditure of State funds.

40 **SECTION 8.21.(d)** Beginning with the 2014-2015 fiscal year, TFA shall use a
41 portion of the funds available to it to administer the NC Teacher Corps program in accordance
42 with subsection (c1) of this section. TFA may also use a portion of the funds available to it for
43 the 2013-2014 fiscal year to recruit a cohort of NC Teacher Corps members for the 2014-2015
44 school year. TFA shall include information regarding the operation of the NC Teacher Corps in
45 its annual report to the Joint Legislative Education Oversight Committee by January 1, 2015,
46 and annually thereafter, as required under subsection (b) of this section.

47 **SECTION 8.21.(e)** TFA shall submit quarterly updates on the information
48 contained in the annual report required by this section to the offices of the President Pro
49 Tempore of the Senate and the Speaker of the House of Representatives, the Chairs of the
50 Senate Appropriations/Base Budget Committee, the House Appropriations Committee, the

1 Senate Appropriations Committee on Education/Higher Education, the House Appropriations
2 Subcommittee on Education, and the Fiscal Research Division.

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

7 8 **PHASE OUT CERTAIN TEACHER SALARY SUPPLEMENTS**

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

14 15 **PUBLIC-PRIVATE PARTNERSHIPS FOR THE READ TO ACHIEVE PROGRAM**

16 **SECTION 8.23.** Local school administrative units shall consider the utilization of
17 public-private partnerships in implementing the requirements of the North Carolina Read to
18 Achieve Program. The Department of Public Instruction may recommend nonprofit
19 organizations with expertise in literacy training in low-performing schools and the ability to
20 leverage private resources to partner with the local school administrative units in implementing
21 the program.

22 23 **PART IX. THE EXCELLENT PUBLIC SCHOOLS ACT OF 2013**

24 25 **STATE EMPLOYEE LITERACY VOLUNTEER LEAVE TIME**

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

27 **"§ 126-4. Powers and duties of State Personnel Commission.**

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

30 ...

31 (5b) A leave program that allows employees to volunteer in a literacy program in
32 a public school for up to five hours each month.

33"

34 35 **MAXIMIZE INSTRUCTIONAL TIME**

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

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

- 42 (1) Schools shall devote no more than two days of instructional time per year to
43 the taking of practice tests that do not have the primary purpose of assessing
44 current student learning;
- 45 (2) Students in a school shall not be subject to field tests or national tests during
46 the two-week period preceding the administration of end-of-grade tests,
47 end-of-course tests, or the school's regularly scheduled final exams; and
- 48 (3) No school shall participate in more than two field tests at any one grade level
49 during a school year ~~unless that school volunteers, through a vote of its~~
50 ~~school improvement team, to participate in an expanded number of field~~
51 ~~tests-year.~~

(4) All annual assessments of student achievement adopted by the State Board of Education pursuant to G.S. 115C-174.11(c)(1) and (3) and all final exams for courses shall be administered within the final 10 instructional days of the school year for year-long courses and within the final five instructional days of the semester for semester courses. Exceptions shall be permitted to accommodate a student's individualized education program and section 504 (29 U.S.C. § 794) plans and for the administration of final exams for courses with national or international curricula required to be held at designated times.

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

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

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

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

STRENGTHEN TEACHER LICENSURE AND MODIFY LICENSURE FEES

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

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

(a2) ~~The State Board of Education shall impose the following~~ establish a schedule of fees for teacher licensure and administrative changes. ~~changes. The fees established under this subsection shall not exceed the actual cost of providing the service. The schedule may include fees for any of the following services:~~

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

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

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

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

9 "

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

11 **"§ 115C-296. Board sets licensure requirements; reports; lateral entry and mentor**
12 **programs.**

13 ...

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

24 (1) Licensure Standards. –

25 a. The licensure program shall provide for initial licensure after
26 completion of preservice training, continuing licensure after three
27 years of teaching experience, and license renewal every five years
28 thereafter, until the retirement of the teacher. The last license renewal
29 received prior to retirement shall remain in effect for five years after
30 retirement. The licensure program shall also provide for lifetime
31 licensure after 50 years of teaching.

32 b. The State Board of Education, in consultation with the Board of
33 Governors of The University of North Carolina, shall evaluate and
34 develop enhanced requirements for continuing licensure. The new
35 requirements shall reflect more rigorous standards for continuing
36 licensure and shall be aligned with high quality professional
37 development programs that reflect State priorities for improving
38 student achievement. Standards for continuing licensure shall include
39 at least eight continuing education credits with at least three credits
40 required in a teacher's academic subject area.

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

48 (2) Teacher education programs. –

49 a. The State Board of Education, as lead agency in coordination with
50 the Board of Governors of The University of North Carolina, the
51 North Carolina Independent Colleges and Universities, and any other

1 public and private agencies as necessary, shall continue to raise
2 standards for entry into teacher education programs.

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

9 1. (i) haveProvide students with adequate coursework in the
10 teaching of reading and ~~mathematics;~~ mathematics.

11 2. (ii) are assessedAssess students prior to ~~certification~~
12 licensure to determine that they possess the requisite
13 knowledge in scientifically based reading and mathematics
14 instruction that is aligned with the State Board's
15 ~~expectations;~~ expectations.

16 3. (iii) continue to receiveContinue to provide students with
17 preparation in applying formative and summative assessments
18 within the school and classroom setting through
19 technology-based assessment systems available in North
20 Carolina schools that measure and predict expected student
21 ~~improvement;~~ and improvement.

22 4. (iv) are preparedPrepare students to integrate arts education
23 across the curriculum.

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

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

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

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

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

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

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

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

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

19 a. ~~(i) quality~~Quality of students entering the schools of education,
20 including the average grade point average and average score on
21 preprofessional skills tests that assess reading, writing, math and
22 other ~~competencies;~~competencies.

23 b. ~~(ii) graduation rates;~~Graduation rates.

24 c. ~~(iii) time to graduation rates;~~Time-to-graduation rates.

25 d. ~~(iv) average~~Average scores of graduates on professional and content
26 area examination for the purpose of ~~licensure;~~licensure.

27 e. ~~(v) — percentage~~Percentage of graduates receiving initial
28 ~~licenses;~~licenses.

29 f. ~~(vi) percentage~~Percentage of graduates hired as ~~teachers;~~teachers.

30 g. ~~(vii) percentage~~Percentage of graduates remaining in teaching for
31 four ~~years;~~years.

32 h. ~~(viii) graduate~~Graduate satisfaction based on a common ~~survey;~~
33 ~~and~~survey.

34 i. ~~(ix) employer~~Employer satisfaction based on a common survey.

35 j. Teacher contribution to the academic success of students.

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

41 (2) Masters degree programs in education and school administration
42 performance report. – The State Board ~~also shall develop and implement a~~
43 ~~plan for~~require submission to the State Board of annual performance reports
44 ~~for~~from all masters degree programs in education and school administration
45 in North Carolina. To the extent it is appropriated, the performance report
46 shall include similar indicators to those ~~developed~~required for the
47 performance report for teacher education ~~programs.~~programs as set forth in
48 subdivision (1) of this subsection. The performance reports shall follow a
49 common format.

50 (3) Educator preparation program report card. – The State Board shall create a
51 higher education educator preparation program report card reflecting the

1 information collected in the annual performance reports for each North
 2 Carolina institution offering teacher education programs and master of
 3 education programs. The report cards shall, at a minimum, summarize
 4 information reported on all of the performance indicators for the
 5 performance reports required by subdivision (1) of this subsection.

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

19 (5) State Board action based on performance. – The State Board of Education
 20 shall reward and sanction approved teacher education programs and master
 21 of education programs and revoke approval of those programs based on the
 22 performance reports and other criteria established by the State Board of
 23 Education.

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

34 (c) It is the policy of the State of North Carolina to encourage lateral entry into the
 35 profession of teaching by skilled individuals from the private sector. To this end, before the
 36 1985-86 school year begins, the State Board of Education shall develop criteria and procedures
 37 to accomplish the employment of such individuals as classroom teachers. Beginning with the
 38 2006-2007 school year, the criteria and procedures shall include preservice training in (i) the
 39 identification and education of children with disabilities and (ii) positive management of
 40 student behavior, effective communication for defusing and deescalating disruptive or
 41 dangerous behavior, and safe and appropriate use of seclusion and restraint. Skilled individuals
 42 who choose to enter the profession of teaching laterally may be granted a ~~provisional~~ lateral
 43 entry teaching license for no more than three years and shall be required to obtain licensure
 44 before contracting for a fourth year of service with any local administrative unit in this State.

45"

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

48 **"§ 115C-296. Board sets licensure requirements; reports; lateral entry and mentor**
 49 **programs.**

50 (a) The State Board of Education shall have entire control of licensing all applicants for
 51 teaching positions in all public ~~elementary and high~~ schools of North Carolina; and it shall

1 prescribe the rules and regulations for the renewal and extension of all licenses and shall
2 determine and fix the salary for each grade and type of license which it authorizes.

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

15 (a1) The State Board shall adopt policies that establish the minimum scores for any
16 required standard examinations and other measures necessary to assess the qualifications of
17 professional personnel as required under subsection (a) of this section. For purposes of this
18 subsection, the State Board shall not be subject to Article 2A of Chapter 150B of the General
19 Statutes. At least 30 days prior to changing any policy adopted under this subsection, the State
20 Board shall provide written notice to all North Carolina schools of education and to all local
21 boards of education. The written notice shall include the proposed revised policy.

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

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

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

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

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

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

- 1 (1) Licensure standards. –
- 2 a. The licensure program shall provide for initial licensure after
- 3 completion of preservice training, continuing licensure after three
- 4 years of teaching experience, and license renewal every five years
- 5 thereafter, until the retirement of the teacher. The last license renewal
- 6 received prior to retirement shall remain in effect for five years after
- 7 retirement. The licensure program shall also provide for lifetime
- 8 licensure after 50 years of teaching.
- 9 b. The State Board of Education, in consultation with the Board of
- 10 Governors of The University of North Carolina, shall evaluate and
- 11 develop enhanced requirements for continuing licensure. The new
- 12 requirements shall reflect more rigorous standards for continuing
- 13 licensure and shall be aligned with high quality professional
- 14 development programs that reflect State priorities for improving
- 15 student achievement. Standards for continuing licensure shall include
- 16 at least eight continuing education credits, with at least three credits
- 17 required in the teacher's academic subject areas. Standards for
- 18 continuing licensure for elementary and middle school teachers shall
- 19 include at least three continuing education credits related to literacy.
- 20 Literacy renewal credits shall include evidence-based assessment,
- 21 diagnosis, and intervention strategies for students not demonstrating
- 22 reading proficiency. Oral language, phonemic and phonological
- 23 awareness, phonics, vocabulary, fluency, and comprehension shall be
- 24 addressed in literacy-related activities leading to license renewal for
- 25 elementary school teachers.
- 26 c. The State Board of Education, in consultation with local boards of
- 27 education and the Board of Governors of The University of North
- 28 Carolina, shall reevaluate and enhance the requirements for renewal
- 29 of teacher licenses. The State Board shall consider modifications in
- 30 the license renewal achievement and to make it a mechanism for
- 31 teachers to renew continually their knowledge and professional
- 32 skills.
- 33 (2) Teacher education programs. –
- 34 a. The State Board of Education, as lead agency in coordination with
- 35 the Board of Governors of The University of North Carolina, the
- 36 North Carolina Independent Colleges and Universities, and any other
- 37 public and private agencies as necessary, shall continue to raise
- 38 standards for entry into teacher education programs.
- 39 b. To further ensure that teacher preparation programs remain current
- 40 and reflect a rigorous course of study that is aligned to State and
- 41 national standards, the State Board of Education, in consultation with
- 42 the Board of Governors of The University of North Carolina, shall do
- 43 all of the following to ensure that students are prepared to teach in
- 44 elementary schools:
- 45 1. Provide students with adequate coursework in the teaching of
- 46 reading and mathematics.
- 47 2. Assess students prior to licensure to determine that they
- 48 possess the requisite knowledge in scientifically based
- 49 reading and mathematics instruction that is aligned with the
- 50 State Board's expectations.

- 1 3. Continue to provide students with preparation in applying
- 2 formative and summative assessments within the school and
- 3 classroom setting through technology-based assessment
- 4 systems available in North Carolina schools that measure and
- 5 predict expected student improvement.
- 6 4. Prepare students to integrate arts education across the
- 7 curriculum.
- 8 c. The State Board of Education, in consultation with local boards of
- 9 education and the Board of Governors of The University of North
- 10 Carolina, shall evaluate and modify, as necessary, the academic
- 11 requirements of teacher preparation programs for students preparing
- 12 to teach science in middle and high schools to ensure that there is
- 13 adequate preparation in issues related to science laboratory safety.
- 14 d. The standards for approval of institutions of teacher education shall
- 15 require that teacher education programs for all students include the
- 16 following demonstrated competencies:
- 17 1. ~~in~~ All teacher education programs. –
- 18 I. ~~(i) the~~ The identification and education of children
- 19 with disabilities and disabilities.
- 20 II. ~~(ii) positive~~ Positive management of student behavior
- 21 and effective communication techniques for defusing
- 22 and deescalating disruptive or dangerous behavior.
- 23 2. Elementary and special education general curriculum teacher
- 24 education programs. –
- 25 I. Teaching of reading, including a substantive
- 26 understanding of reading as a process involving oral
- 27 language, phonological and phonemic awareness,
- 28 phonics, fluency, vocabulary, and comprehension.
- 29 II. Evidence-based assessment and diagnosis of specific
- 30 areas of difficulty with reading development and of
- 31 reading deficiencies.
- 32 III. Appropriate application of instructional supports and
- 33 services and reading interventions to ensure reading
- 34 proficiency for all students.
- 35 e. The State Board of Education shall incorporate the criteria developed
- 36 in accordance with G.S. 116-74.21 for assessing proposals under the
- 37 School Administrator Training Program into its school administrator
- 38 program approval standards.
- 39 f. All North Carolina institutions of higher education that offer teacher
- 40 education programs, masters degree programs in education, or
- 41 masters degree programs in school administration shall provide
- 42 annual performance reports to the State Board of Education.

...."

SECTION 9.3.(d) G.S. 150B-1(d) is amended by adding a new subdivision to

read:

"(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the following:

...

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

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

15 **SECTION 9.3.(f)** Subsection (b) of this section applies beginning with the
16 2013-2014 school year. Subsection (c) of this section applies beginning with the 2014-2015
17 school year.

18 For teachers who are in their fourth or fifth year of their current five-year license
19 renewal cycle, the changes required by G.S. 115C-296(b)(1)b., as enacted by subsections (b)
20 and (c) of this section, shall apply beginning with the first year of their next five-year license
21 renewal cycle.

22 23 **SCHOOL PERFORMANCE GRADES**

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

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

27 "Part 1B. School Performance.

28 **"§ 115C-83.11. School performance scores, grades, including measure of student growth.**

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

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

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

50 (d) Elementary and Middle Schools Achievement Indicators. – For schools serving
51 students in kindergarten through eighth grade, the overall school achievement score shall be

1 calculated based on the sum of the following school achievement indicators that are weighted
2 proportionally by the number of students measured by each indicator. The score shall be
3 calculated as follows:

- 4 (1) One point for each percent of students who score at or above proficient on
5 annual assessments for mathematics in grades three through eight.
- 6 (2) One point for each percent of students who score at or above proficient on
7 annual assessments for reading in grades three through eight.
- 8 (3) One point for each percent of students who score at or above proficient on
9 annual assessments for science in grades five and eight.
- 10 (4) One point for each percent of students who score at or above proficient in
11 Algebra I/Integrated Math I, English II, or Biology end-of-course tests.

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

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

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

- 42 (1) At least 90 performance grade points for an overall school performance
43 grade of A.
- 44 (2) At least 80 performance grade points for an overall school performance
45 grade of B.
- 46 (3) At least 70 performance grade points for an overall school performance
47 grade of C.
- 48 (4) At least 60 performance grade points for an overall school performance
49 grade of D.
- 50 (5) A school that accumulates fewer than 60 points shall be assigned an overall
51 school performance grade of F.

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

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

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

14 "c1. To issue an annual "report card" for the State and for each local
15 school administrative unit, assessing each unit's efforts to improve
16 student performance based on the growth in performance of the
17 students in each school and taking into account progress over the
18 previous years' level of performance and the State's performance in
19 comparison with other states. This assessment shall take into account
20 factors that have been shown to affect student performance and that
21 the State Board considers relevant to assess the State's efforts to
22 improve student performance. As a part of the annual "report card"
23 for each local school administrative unit, the State Board shall
24 ~~award~~award, in accordance with G.S. 115C-83.11, an overall
25 numerical school performance score on a scale of zero to 100 and a
26 corresponding letter grade of A, B, C, D, or F earned by each school
27 within the local school administrative unit. The school performance
28 score and grade shall reflect student performance on annual
29 subject-specific assessments, college and workplace readiness
30 measures, and graduation rates. For schools serving students in any
31 grade from kindergarten to eighth grade, separate performance scores
32 and grades shall also be awarded based on the school performance in
33 reading and mathematics respectively. The annual "report card" for
34 schools serving students in third grade also shall include the number
35 and percentage of third grade students who (i) take and pass the
36 alternative assessment of reading comprehension; (ii) were retained
37 in third grade for not demonstrating reading proficiency as indicated
38 in G.S. 115C-83.7(a); and (iii) were exempt from mandatory third
39 grade retention by category of exemption as listed in
40 G.S. 115C-83.7(b)."

41 **SECTION 9.4.(d)** This section applies beginning with the 2012-2013 school year.
42

43 **PAY FOR EXCELLENCE**

44 **SECTION 9.5.** When a robust evaluation instrument and process that accurately
45 assesses and evaluates the effectiveness of teachers, especially in the area of student growth, is
46 wholly implemented in North Carolina, it is the intent of the General Assembly that the
47 evaluation instrument and process be utilized in the implementation of a plan of performance
48 pay for teachers in this State.
49

50 **TEACHER CONTRACTS**

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

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

3 **"§ 115C-325.1. Definitions.**

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

- 5 (1) "Day" means calendar day. In computing any period of time, Rule 6 of the
6 North Carolina Rules of Civil Procedure shall apply.
- 7 (2) "Demote" means to reduce the salary of a person who is classified or paid by
8 the State Board of Education as a classroom teacher or as a school
9 administrator during the time of the contract. The word "demote" does not
10 include (i) a suspension without pay pursuant to G.S. 115C-325.5(a); (ii) the
11 elimination or reduction of bonus payments, including merit-based
12 supplements or a systemwide modification in the amount of any applicable
13 local supplement; (iii) any reduction in salary that results from the
14 elimination of a special duty, such as the duty of an athletic coach or a choral
15 director; or (iv) any reduction of pay as compared to a prior term of contract.
- 16 (3) "Disciplinary suspension" means a final decision to suspend a teacher or
17 school administrator without pay for no more than 60 days under
18 G.S. 115C-325.5(b).
- 19 (4) "School administrator" means a principal, assistant principal, supervisor, or
20 director whose major function includes the direct or indirect supervision of
21 teaching or any other part of the instructional program, as provided in
22 G.S. 115C-287.1(a)(3).
- 23 (5) "Teacher" means a person meeting each of the following requirements:
24 a. Who holds at least one of the following licenses issued by the State
25 Board of Education:
26 1. A current standard professional educator's license.
27 2. A current lateral entry teaching license.
28 3. A regular, not expired, vocational license.
29 b. Whose major responsibility is to teach or directly supervise teaching
30 or who is classified by the State Board of Education or is paid either
31 as a classroom teacher or instructional support personnel.
32 c. Who is employed to fill a full-time, permanent position.
- 33 (6) "Year" means a calendar year beginning July 1 and ending June 30.

34 **"§ 115C-325.2. Personnel files.**

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

48 (b) Inspection of Personnel Files. – The personnel file shall be open for the teacher's
49 inspection at all reasonable times but shall be open to other persons only in accordance with
50 such rules and regulations as the board adopts. Any preemployment data or other information
51 obtained about a teacher before the teacher's employment by the board may be kept in a file

1 separate from the teacher's personnel file and need not be made available to the teacher. No
2 data placed in the preemployment file may be introduced as evidence at a hearing on the
3 dismissal or demotion of a teacher, except the data may be used to substantiate
4 G.S. 115C-325.4(a)(7) or G.S. 115C-325.4(a)(14) as grounds for dismissal or demotion.

5 **"§ 115C-325.3. Teacher contracts.**

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

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

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

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

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

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

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

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

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

5 **"§ 115C-325.4. Dismissal or demotion for cause.**

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

- 9 (1) Inadequate performance. In determining whether the professional
10 performance of a teacher is adequate, consideration shall be given to regular
11 and special evaluation reports prepared in accordance with the published
12 policy of the employing local school administrative unit and to any
13 published standards of performance which shall have been adopted by the
14 board. Inadequate performance for a teacher shall mean (i) the failure to
15 perform at a proficient level on any standard of the evaluation instrument or
16 (ii) otherwise performing in a manner that is below standard.
- 17 (2) Immorality.
- 18 (3) Insubordination.
- 19 (4) Neglect of duty.
- 20 (5) Physical or mental incapacity.
- 21 (6) Habitual or excessive use of alcohol or nonmedical use of a controlled
22 substance as defined in Article 5 of Chapter 90 of the General Statutes.
- 23 (7) Conviction of a felony or a crime involving moral turpitude.
- 24 (8) Advocating the overthrow of the government of the United States or of the
25 State of North Carolina by force, violence, or other unlawful means.
- 26 (9) Failure to fulfill the duties and responsibilities imposed upon teachers or
27 school administrators by the General Statutes of this State.
- 28 (10) Failure to comply with such reasonable requirements as the board may
29 prescribe.
- 30 (11) Any cause which constitutes grounds for the revocation of the teacher's
31 teaching license or the school administrator's administrator license.
- 32 (12) Failure to maintain his or her license in a current status.
- 33 (13) Failure to repay money owed to the State in accordance with the provisions
34 of Article 60 of Chapter 143 of the General Statutes.
- 35 (14) Providing false information or knowingly omitting a material fact on an
36 application for employment or in response to a preemployment inquiry.
- 37 (15) A justifiable decrease in the number of positions due to district
38 reorganization, decreased enrollment, or decreased funding.

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

42 **"§ 115C-325.5. Teacher suspension.**

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

1 immediately, shall be paid for the period of suspension, and all records of the suspension shall
2 be removed from the teacher's personnel file.

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

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

23 **§ 115C-325.6. Procedure for dismissal or demotion of a teacher for cause.**

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

28 (b) Notice of Recommendation. – Before recommending to a board the dismissal or
29 demotion of a teacher, the superintendent shall give written notice to the teacher by certified
30 mail or personal delivery of the superintendent's intention to make such recommendation and
31 shall set forth as part of the superintendent's recommendation the grounds upon which he or she
32 believes such dismissal or demotion is justified. The superintendent also shall meet with the
33 teacher and provide written notice of the charges against the teacher, an explanation of the basis
34 for the charges, and an opportunity to respond if the teacher has not done so under
35 G.S. 115C-325.5(a). The notice shall include a statement to the effect that the teacher, within
36 14 days after the date of receipt of the notice, may request a hearing before the board on the
37 superintendent's recommendation. A copy of Part 3 of Article 22 of Chapter 115C of the
38 General Statutes shall also be sent to the teacher.

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

48 (d) No Request for Hearing. – If the teacher does not request a hearing before the board
49 within the 14 days provided, the superintendent may submit his or her recommendation to the
50 board. The board, if it sees fit, may by resolution (i) reject the superintendent's recommendation

1 or (ii) accept or modify the superintendent's recommendation and dismiss, demote, reinstate, or
2 suspend the teacher without pay.

3 **"§ 115C-325.7. Hearing before board.**

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

- 7 (1) The hearing shall be private.
- 8 (2) The hearing shall be conducted in accordance with reasonable rules adopted
9 by the State Board of Education to govern such hearings.
- 10 (3) At the hearing, the teacher and the superintendent shall have the right to be
11 present and to be heard, to be represented by counsel, and to present through
12 witnesses any competent testimony relevant to the issue of whether grounds
13 exist for a dismissal, demotion, reduction to part-time employment for
14 disciplinary reasons, or disciplinary suspension without pay.
- 15 (4) Rules of evidence shall not apply to a hearing under this subsection, and the
16 board may give probative effect to evidence that is of a kind commonly
17 relied on by reasonably prudent persons in the conduct of serious affairs.
- 18 (5) At least five days before the hearing, the superintendent shall provide to the
19 teacher a list of witnesses the superintendent intends to present, a brief
20 statement of the nature of the testimony of each witness, and a copy of any
21 documentary evidence the superintendent intends to present.
- 22 (6) At least three days before the hearing, the teacher shall provide the
23 superintendent a list of witnesses the teacher intends to present, a brief
24 statement of the nature of the testimony of each witness, and a copy of any
25 documentary evidence the teacher intends to present.
- 26 (7) No new evidence may be presented at the hearing except upon a finding by
27 the board that the new evidence is critical to the matter at issue and the party
28 making the request could not, with reasonable diligence, have discovered
29 and produced the evidence according to the schedule provided in this
30 section.
- 31 (8) The board may subpoena and swear witnesses and may require them to give
32 testimony and to produce records and documents relevant to the grounds for
33 dismissal, demotion, reduction to part-time employment for disciplinary
34 reasons, or disciplinary suspension without pay.
- 35 (9) The board shall decide all procedural issues, including limiting cumulative
36 evidence, necessary for a fair and efficient hearing.
- 37 (10) The superintendent shall provide for making a transcript of the hearing. The
38 teacher may request and shall receive at no charge a transcript of the
39 proceedings.

40 **"§ 115C-325.8. Right of appeal.**

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

- 47 (1) Is in violation of constitutional provisions.
- 48 (2) Is in excess of the statutory authority or jurisdiction of the board.
- 49 (3) Was made upon unlawful procedure.
- 50 (4) Is affected by other error of law.

1 (5) Is unsupported by substantial evidence in view of the entire record as
2 submitted.

3 (6) Is arbitrary or capricious.

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

10 **"§ 115C-325.9. Teacher resignation.**

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

14 (1) The superintendent shall report the matter to the State Board of Education.

15 (2) The teacher shall be deemed to have consented to (i) the placement in the
16 teacher's personnel file of the written notice of the superintendent's intention
17 to recommend dismissal and (ii) the release of the fact that the
18 superintendent has reported this teacher to the State Board of Education to
19 prospective employers, upon request. The provisions of G.S. 115C-321 shall
20 not apply to the release of this particular information.

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

31 (b) Thirty Days' Notice Resignation Requirement. – A teacher who is not recommended
32 for dismissal should not resign during the term of the contract without the consent of the
33 superintendent unless he or she has given at least 30 days' notice. If a teacher who is not
34 recommended for dismissal does resign during the term of the contract without giving at least
35 30 days' notice, the board may request that the State Board of Education revoke the teacher's
36 license for the remainder of that school year. A copy of the request shall be placed in the
37 teacher's personnel file.

38 **"§ 115C-325.10. Application to certain institutions.**

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

44 **"§ 115C-325.11. Dismissal of school administrators and teachers employed in**
45 **low-performing residential schools.**

46 (a) Notwithstanding any other provision of this section or any other law, this section
47 shall govern the dismissal by the State Board of Education of teachers, principals, assistant
48 principals, directors, supervisors, and other licensed personnel assigned to a residential school
49 that the State Board has identified as low-performing and to which the State Board has assigned
50 an assistance team. The State Board shall dismiss a teacher, principal, assistant principal,
51 director, supervisor, or other licensed personnel when the State Board receives two consecutive

1 evaluations that include written findings and recommendations regarding that person's
2 inadequate performance from the assistance team. These findings and recommendations shall
3 be substantial evidence of the inadequate performance of the teacher or school administrator.

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

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

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

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

18 (c) Notwithstanding any other provision of this section or any other law, this subsection
19 shall govern the dismissal by the State Board of licensed staff members who have engaged in a
20 remediation plan under G.S. 115C-105.38A(c) but who, after one retest, fail to meet the general
21 knowledge standard set by the State Board. The failure to meet the general knowledge standard
22 after one retest shall be substantial evidence of the inadequate performance of the licensed staff
23 member.

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

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

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

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

37 **§ 115C-325.12. Procedure for dismissal of principals employed in low-performing**
38 **schools.**

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

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

49 (c) Procedures for Dismissal of Principal. –

50 (1) If the State Board through its designee recommends the dismissal of a
51 principal under this section, the principal shall be suspended with pay

1 pending a hearing before a panel of three members of the State Board. The
2 purpose of this hearing, which shall be held within 60 days after the
3 principal is suspended, is to determine whether the principal shall be
4 dismissed.

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

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

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

19 (5) In all hearings under this section, the burden of proof is on the principal to
20 establish that the factors leading to the school's low performance were not
21 due to the principal's inadequate performance. In all hearings under this
22 section, the burden of proof is on the State Board to establish that the school
23 failed to make satisfactory improvement after an assistance team was
24 assigned to the school and to establish one or more of the grounds
25 established for dismissal or demotion of a teacher under G.S. 115C-325.4.

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

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

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

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

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

39 **"§ 115C-325.13. Procedure for dismissal of teachers employed in low-performing schools.**

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

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

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

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

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

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

18 (d) A licensed staff member may request a hearing before a panel of three members of
19 the State Board within 30 days of any dismissal under this section. The State Board shall adopt
20 procedures to ensure that due process rights are afforded to licensed staff members
21 recommended for dismissal under this section. Decisions of the panel may be appealed on the
22 record to the State Board.

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

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

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

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

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

32 (1) The discipline of a student under G.S. 115C-390.7, 115C-390.10, or
33 115C-390.11;

34 (2) An alleged violation of a specified federal law, State law, State Board of
35 Education policy, State rule, or local board policy, including policies
36 regarding grade retention of students;

37 (3) The terms or conditions of employment or employment status of a school
38 employee; and

39 (4) Any other decision that by statute specifically provides for a right of appeal
40 to the local board of education and for which there is no other statutory
41 appeal procedure.

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

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

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

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

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

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

20 **"§ 115C-287.1. Method of employment of principals, assistant principals, supervisors,
21 and directors.**

22 (a) (1) ~~Beginning July 1, 1995, all~~ All persons employed as school administrators
23 shall be employed pursuant to this section.

24 (2) ~~Notwithstanding G.S. 115C-287.1(a)(1), the following school administrators
25 shall be employed pursuant to G.S. 115C-325:~~

26 a. ~~School administrators who, as of July 1, 1995, are serving in a
27 principal or supervisor position with career status in that position;
28 and~~

29 b. ~~School administrators who, as of July 1, 1995, are serving in a
30 principal or supervisor position and who are eligible to achieve
31 career status on or before June 30, 1997.~~

32 ~~A school administrator shall cease to be employed pursuant to
33 G.S. 115C-325 if the school administrator: (i) voluntarily relinquishes career
34 status or the opportunity to achieve career status through promotion,
35 resignation, or otherwise; or (ii) is dismissed or demoted or whose contract
36 is not renewed pursuant to G.S. 115C-325.~~

37 (3) For purposes of this section, school administrator means a:

- 38 a. Principal;
39 b. Assistant principal;
40 c. Supervisor; or
41 d. Director,

42 whose major function includes the direct or indirect supervision of teaching
43 or of any other part of the instructional program.

44 (4) ~~Nothing in this section shall be construed to confer career status on any
45 assistant principal or director, or to make an assistant principal eligible for
46 career status as an assistant principal or a director eligible for career status as
47 a director.~~

48 (b) Local boards of education shall employ school administrators ~~who are ineligible for
49 career status as provided in G.S. 115C-325(e)(3),~~ upon the recommendation of the
50 superintendent. The initial contract between a school administrator and a local board of
51 education shall be for two to four years, ending on June 30 of the final 12 months of the

1 contract. In the case of a subsequent contract between a principal or assistant principal and a
2 local board of education, the contract ~~shall be for~~ may be for up to a term of four years. In the
3 case of an initial contract between a school administrator and a local board of education, the
4 first year of the contract may be for a period of less than 12 months provided the contract
5 becomes effective on or before September 1. A local board of education may, with the written
6 consent of the school administrator, extend, renew, or offer a new school administrator's
7 contract at any time after the first 12 months of the contract so long as the term of the new,
8 renewed, or extended contract does not exceed four years. Rolling annual contract renewals are
9 not allowed. Nothing in this section shall be construed to prohibit the filling of an
10 administrative position on an interim or temporary basis.

11 (c) The term of employment shall be stated in a written contract that shall be entered
12 into between the local board of education and the school administrator. The school
13 administrator shall not be dismissed or demoted during the term of the contract except for the
14 grounds and by the procedure by which a ~~career~~ teacher may be dismissed or demoted for cause
15 as set forth in ~~G.S. 115C-325~~. G.S. 115C-325.4.

16 (d) If a superintendent intends to recommend to the local board of education that the
17 school administrator be offered a new, renewed, or extended contract, the superintendent shall
18 submit the recommendation to the local board for action. The local board may approve the
19 superintendent's recommendation or decide not to offer the school administrator a new,
20 renewed, or extended school administrator's contract.

21 If a superintendent decides not to recommend that the local board of education offer a new,
22 renewed, or extended school administrator's contract to the school administrator, the
23 superintendent shall give the school administrator written notice of his or her decision ~~and the~~
24 ~~reasons for his or her decision~~ no later than May 1 of the final year of the contract. The
25 superintendent's reasons may not be arbitrary, capricious, discriminatory, personal, ~~or~~
26 ~~political~~ political, or prohibited by State or federal law. No action by the local board or further
27 notice to the school administrator shall be necessary unless the school administrator files with
28 the superintendent a written request, within 10 days of receipt of the superintendent's decision,
29 for a hearing before the local board. ~~Failure to file a timely request for a hearing shall result in a~~
30 ~~waiver of the right to appeal the superintendent's decision~~. If a school administrator files a
31 timely request for a hearing, the local board shall conduct a hearing pursuant to the provisions
32 of G.S. 115C-45(c) and make a final decision on whether to offer the school administrator a
33 new, renewed, or extended school administrator's contract.

34 If the local board decides not to offer the school administrator a new, renewed, or extended
35 school administrator's contract, the local board shall notify the school administrator of its
36 decision by June 1 of the final year of the contract. A decision not to offer the school
37 administrator a new, renewed, or extended contract may be for any cause that is not arbitrary,
38 capricious, discriminatory, personal, ~~or political~~ political, or prohibited by State or federal law.
39 ~~The local board's decision not to offer the school administrator a new, renewed, or extended~~
40 ~~school administrator's contract is subject to judicial review in accordance with Article 4 of~~
41 ~~Chapter 150B of the General Statutes~~.

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

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

48 (g) ~~If, prior to appointment as a school administrator, the school administrator held~~
49 ~~career status as a teacher in the local school administrative unit in which he or she is employed~~
50 ~~as a school administrator, a school administrator shall retain career status as a teacher if the~~
51 ~~school administrator is not offered a new, renewed, or extended contract by the local board of~~

1 education, unless the school administrator voluntarily relinquished that right or is dismissed or
2 demoted pursuant to G.S. 115C-325.

3 (h) An individual who holds a provisional assistant principal's certificate license and
4 who is employed as an assistant principal under G.S. 115C-284(c) shall be considered a school
5 administrator for purposes of this section. Notwithstanding subsection (b) of this section, a
6 local board may enter into one-year contracts with a school administrator who holds a
7 provisional assistant principal's certificate license. ~~If the school administrator held career status
8 as a teacher in the local school administrative unit prior to being employed as an assistant
9 principal and the State Board for any reason does not extend the school administrator's
10 provisional assistant principal's certificate, the school administrator shall retain career status as
11 a teacher unless the school administrator voluntarily relinquished that right or is dismissed or
12 demoted under G.S. 115C-325.~~ Nothing in this subsection or G.S. 115C-284(c) shall be
13 construed to require a local board to extend or renew the contract of a school administrator who
14 holds a provisional assistant principal's certificate license."

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

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

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

42 **SECTION 9.6.(h)** Teachers employed by a local board of education on a four-year
43 contract beginning with the 2014-2015 school year shall receive a five hundred dollar
44 (\$500.00) annual pay raise for each year of the four-year contract.

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

48 **SECTION 9.6.(j)** Subsection (b) of this section becomes effective July 1, 2014.
49 G.S. 115C-325.1 through G.S. 115C-325.13, as enacted by this section, shall apply to all
50 teachers on one- or four-year contracts beginning July 1, 2014. G.S. 115C-325.1 through

1 G.S. 115C-325.13, as enacted by this section, shall apply to all teachers employed by local
2 boards of education or the State on or after July 1, 2018.

3 **SECTION 9.6.(k)** Subsections (c) and (d) of this section become effective July 1,
4 2014, and apply to all employees employed on or after that date.

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

7 **TEACHER CONTRACT CONFORMING CHANGES**

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

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

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

17 "(2) Restart model, in which the State Board of Education would authorize the
18 local board of education to operate the school with the same exemptions
19 from statutes and rules as a charter school authorized under Part 6A of
20 Article 16 of this Chapter, or under the management of an educational
21 management organization that has been selected through a rigorous review
22 process. A school operated under this subdivision remains under the control
23 of the local board of education, and employees assigned to the school are
24 employees of the local school administrative unit with the protections
25 provided by ~~G.S. 115C-325~~. Part 3 of Article 22 of this Chapter."

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

27 **"§ 115C-105.38A. Teacher competency assurance.**

28 ...
29
30 (d) Retesting; Dismissal. – Upon completion of the remediation plan required under
31 subsection (c) of this section, the ~~certified~~licensed staff member shall take the general
32 knowledge test a second time. If the ~~certified~~licensed staff member fails to acquire a passing
33 score on the second test, the State Board shall begin a dismissal proceeding under
34 ~~G.S. 115C-325(q)(2a)~~; G.S. 115C-325(q)(2a) or G.S. 115C-325.13.

35 ...
36 (f) Other Actions Not Precluded. – Nothing in this section shall be construed to restrict
37 or postpone the following actions:

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

46"
47 **SECTION 9.7.(d)** G.S. 115C-105.39 reads as rewritten:

48 **"§ 115C-105.39. Dismissal or removal of personnel; appointment of interim 49 superintendent.**

50 (a) Within 30 days of the initial identification of a school as low-performing, whether
51 by the local school administrative unit under G.S. 115C-105.37(a1) or by the State Board under

1 G.S. 115C-105.37(a), the superintendent shall take one of the following actions concerning the
2 school's principal: (i) recommend to the local board that the principal be retained in the same
3 position, (ii) recommend to the local board that the principal be retained in the same position
4 and a plan of remediation should be developed, (iii) recommend to the local board that the
5 principal be transferred, or (iv) proceed under ~~G.S. 115C-325~~G.S. 115C-325.4 to dismiss or
6 demote the principal. The principal may be retained in the same position without a plan for
7 remediation only if the principal was in that position for no more than two years before the
8 school is identified as low-performing. The principal shall not be transferred to another
9 principal position unless (i) it is in a school classification in which the principal previously
10 demonstrated at least 2 years of success, (ii) there is a plan to evaluate and provide remediation
11 to the principal for at least one year following the transfer to assure the principal does not
12 impede student performance at the school to which the principal is being transferred; and (iii)
13 the parents of the students at the school to which the principal is being transferred are notified.
14 The principal shall not be transferred to another low-performing school in the local school
15 administrative unit. If the superintendent intends to recommend demotion or dismissal, the
16 superintendent shall notify the local board. Within 15 days of (i) receiving notification that the
17 superintendent intends to proceed under ~~G.S. 115C-325~~G.S. 115C-325.4 or (ii) its decision
18 concerning the superintendent's recommendation, but no later than September 30, the local
19 board shall submit to the State Board a written notice of the action taken and the basis for that
20 action. If the State Board does not assign an assistance team to that school or if the State Board
21 assigns an assistance team to that school and the superintendent proceeds under
22 ~~G.S. 115C-325~~G.S. 115C-325.4 to dismiss or demote the principal, then the State Board shall
23 take no further action. If the State Board assigns an assistance team to the school and the
24 superintendent is not proceeding under ~~G.S. 115C-325~~G.S. 115C-325.4 to dismiss or demote
25 the principal, then the State Board shall vote to accept, reject, or modify the local board's
26 recommendations. The State Board shall notify the local board of its action within five days. If
27 the State Board rejects or modifies the local board's recommendations and does not recommend
28 dismissal of the principal, the State Board's notification shall include recommended action
29 concerning the principal's assignment or terms of employment. Upon receipt of the State
30 Board's notification, the local board shall implement the State Board's recommended action
31 concerning the principal's assignment or terms of employment unless the local board asks the
32 State Board to reconsider that recommendation. The State Board shall provide an opportunity
33 for the local board to be heard before the State Board acts on the local board's request for a
34 reconsideration. The State Board shall vote to affirm or modify its original recommended
35 action and shall notify the local board of its action within five days. Upon receipt of the State
36 Board's notification, the local board shall implement the State Board's final recommended
37 action concerning the principal's assignment or terms of employment. If the State Board rejects
38 or modifies the local board's action and recommends dismissal of the principal, the State Board
39 shall proceed under ~~G.S. 115C-325(q)(1)~~G.S. 115C-325.12.

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

44"

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

46 "(3) ~~Career status-Leave of absence from local school administrative unit. –~~
47 ~~Employees of the board of directors shall not be eligible for career status. If~~
48 a teacher employed by a local school administrative unit makes a written
49 request for a leave of absence to teach at the regional school, the local school
50 administrative unit shall grant the leave for one year. For the initial year of
51 the regional school's operation, the local school administrative unit may

1 require that the request for a leave of absence be made up to 45 days before
2 the teacher would otherwise have to report for duty. After the initial year of
3 the regional school's operation, the local school administrative unit may
4 require that the request for a leave of absence be made up to 90 days before
5 the teacher would otherwise have to report for duty. A local board of
6 education is not required to grant a request for a leave of absence or a
7 request to extend or renew a leave of absence for a teacher who previously
8 has received a leave of absence from that school board under this
9 subdivision. A teacher who has career status under G.S. 115C-325 prior to
10 receiving a leave of absence to teach at the regional school may return to a
11 public school in the local school administrative unit with career status at the
12 end of the leave of absence or upon the end of employment at the regional
13 school if an appropriate position is available. If an appropriate position is
14 unavailable, the teacher's name shall be placed on a list of available teachers
15 in accordance with G.S. 115C-325(e)(2)."

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

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

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

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

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

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

29 **§ 115C-333. Evaluation of licensed employees including certain superintendents;
30 mandatory improvement plans; State board notification upon dismissal of
31 employees.**

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

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

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

51 (b) Mandatory Improvement Plans. –

1 ...
2 (2a) If a licensed employee in a low-performing school receives a rating on any
3 standard on an evaluation that is below proficient or otherwise represents
4 unsatisfactory or below standard performance in an area that the licensed
5 employee was expected to demonstrate, the individual or team that
6 conducted the evaluation shall recommend to the superintendent that (i) the
7 employee receive a mandatory improvement plan designed to improve the
8 employee's ~~performance or performance~~, (ii) the superintendent recommend
9 to the local board that if the employee is a career status teacher the employee
10 be dismissed or demoted and if the employee is a teacher on contract the
11 teacher's contract not be recommended for renewal, or (iii) if the employee
12 engaged in inappropriate conduct or performed inadequately to such a
13 degree that such conduct or performance causes substantial harm to the
14 educational environment that a proceeding for immediate dismissal or
15 demotion be instituted. If the individual or team that conducted the
16 evaluation elects not to make ~~either any~~ of the above recommendations, the
17 said individual or team shall notify the superintendent of this decision. The
18 superintendent shall determine whether to develop a mandatory
19 improvement ~~plan~~ plan, to not recommend renewal of the employee's
20 contract, or to recommend a dismissal proceeding.

21 ...
22 (c) Reassessment of Employee in a Low-Performing School. – After the expiration of
23 the time period for the mandatory improvement plan under subdivision (2a) of subsection (b) of
24 this section, the superintendent, the superintendent's designee, or the assistance team shall
25 assess the performance of the employee of the low-performing school a second time. If the
26 superintendent, superintendent's designee, or assistance team determines that the employee has
27 failed to become proficient in any of the performance standards articulated in the mandatory
28 improvement plan or demonstrate sufficient improvement toward such standards, the
29 superintendent shall recommend that if the employee is a teacher with career status the teacher
30 be dismissed or demoted under G.S. 115C-325, or if the employee is a teacher on contract~~the~~
31 ~~employee~~ the employee's contract not be renewed or if the employee has engaged in
32 inappropriate conduct or performed inadequately to such a degree that such conduct or
33 performance causes substantial harm to the educational environment, that the employee be
34 immediately dismissed or demoted under G.S. 115C-325-G.S. 115C-325.4. The results of the
35 second assessment shall constitute substantial evidence of the employee's inadequate
36 performance.

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

1 least a proficient rating on all of the performance standards that were identified as areas of
2 concern on the mandatory improvement plan, the local board shall notify the State Board that
3 the employee is in good standing and the State Board shall not continue to provide the
4 individual's name to local boards under this subsection unless the employee is a teacher with
5 career status and is subsequently dismissed under G.S. 115C-325 except for a reduction in
6 force-force, or the employee is a teacher on contract subsequently dismissed under
7 G.S. 115C-325.4.

8"

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

10 "§ 115C-333.1. Evaluation of teachers in schools not identified as low-performing;
11 mandatory improvement plans; State Board notification upon dismissal of
12 teachers.

13 (a) Annual Evaluations. – All teachers who are assigned to schools that are not
14 designated as low-performing and who have not ~~attained career status~~ been employed for at
15 least three consecutive years shall be observed at least three times annually by the principal or
16 the principal's designee and at least once annually by a teacher and shall be evaluated at least
17 once annually by a principal. All teachers with career status or on a four-year contract who are
18 assigned to schools that are not designated as low-performing shall be evaluated annually
19 unless a local board adopts rules that allow teachers with career status or on a four-year
20 contract to be evaluated more or less frequently, provided that such rules are not inconsistent
21 with State or federal requirements. Local boards also may adopt rules requiring the annual
22 evaluation of nonlicensed employees. A local board shall use the performance standards and
23 criteria adopted by the State Board and may adopt additional evaluation criteria and standards.
24 All other provisions of this section shall apply if a local board uses an evaluation other than one
25 adopted by the State Board.

26 ...

27 (d) Reassessment of the Teacher. – Upon completion of a mandatory improvement plan
28 under subsection (b) of this section, the principal shall assess the performance of the teacher a
29 second time. The principal shall also review and consider any report provided by the qualified
30 observer under subsection (c) of this section if one has been submitted before the end of the
31 mandatory improvement plan period. If, after the second assessment of the teacher and
32 consideration of any report from the qualified observer, the superintendent or superintendent's
33 designee determines that the teacher has failed to become proficient in any of the performance
34 standards identified as deficient in the mandatory improvement plan or demonstrate sufficient
35 improvement toward such standards, the superintendent may recommend that a teacher with
36 career status be dismissed or demoted under G.S. 115C-325, or if the teacher is on contract that
37 the teacher's contract not be renewed or if the teacher has engaged in inappropriate conduct or
38 performed inadequately to such a degree that such conduct or performance causes substantial
39 harm to the educational environment, that the teacher be immediately dismissed or demoted
40 under ~~G.S. 115C-325~~ G.S. 115C-325.4. The results of the second assessment produced
41 pursuant to the terms of this subsection shall constitute substantial evidence of the teacher's
42 inadequate performance.

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

49 (f) State Board Notification. – If a local board dismisses a teacher with career status for
50 any reason except a reduction in force under G.S. 115C-325(e)(1)., or dismisses a teacher on
51 contract for cause or elects to not renew a teacher's contract as a result of a superintendent's

1 recommendation under subsection (d) of this section, it shall notify the State Board of the
2 action, and the State Board annually shall provide to all local boards the names of those
3 teachers. If a local board hires one of these teachers, within 60 days the superintendent or the
4 superintendent's designee shall observe the teacher, develop a mandatory improvement plan to
5 assist the teacher, and submit the plan to the State Board. The State Board shall review the
6 mandatory improvement plan and may provide comments and suggestions to the
7 superintendent. If on the next evaluation the teacher receives a rating on any standard that was
8 an area of concern on the mandatory improvement plan that is again below proficient or a
9 rating that otherwise represents unsatisfactory or below standard performance, the local board
10 shall notify the State Board, and the State Board shall initiate a proceeding to revoke the
11 teacher's license under G.S. 115C-296(d). If on the next evaluation the teacher receives at least
12 a proficient rating on all of the overall performance standards that were areas of concern on the
13 mandatory improvement plan, the local board shall notify the State Board that the teacher is in
14 good standing, and the State Board shall not continue to provide the teacher's name to local
15 boards under this subsection unless the teacher has career status and is subsequently dismissed
16 under G.S. 115C-325 except for a reduction in ~~force~~ or is a teacher on contract who is
17 subsequently dismissed under G.S. 115C-325.4. If, however, on this next evaluation the teacher
18 receives a developing rating on any standards that were areas of concern on the mandatory
19 improvement plan, the teacher shall have one more year to bring the rating to ~~proficient~~.
20 ~~If proficient if the local board elects to renew the teacher's contract.~~ If by the end of this second
21 year, year the teacher is not proficient in all standards that were areas of concern on the
22 mandatory improvement plan, the local board shall notify the State Board, and the State Board
23 shall initiate a proceeding to revoke the teacher's license under G.S. 115C-296(d).

24"

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

26 "(b) Training. – The State Board, in collaboration with the Board of Governors of The
27 University of North Carolina, shall develop programs designed to train principals and
28 superintendents in the proper administration of the employee evaluations developed by the
29 State Board. The Board of Governors shall use the professional development programs for
30 public school employees that are under its authority to make this training available to all
31 principals and superintendents at locations that are geographically convenient to local school
32 administrative units. The programs shall include methods to determine whether an employee's
33 performance has improved student learning, the development and implementation of
34 appropriate professional growth and mandatory improvement plans, the process for contract
35 nonrenewal, and the dismissal process under ~~G.S. 115C-325~~ Part 3 of Article 22 of this
36 Chapter. The Board of Governors shall ensure that the subject matter of the training programs
37 is incorporated into the masters in school administration programs offered by the constituent
38 institutions. The State Board, in collaboration with the Board of Governors, also shall develop
39 in-service programs for licensed public school employees that may be included in a mandatory
40 improvement plan created under G.S. 115C-333(b) or G.S. 115C-333.1(b). The Board of
41 Governors shall use the professional development programs for public school employees that
42 are under its authority to make this training available at locations that are geographically
43 convenient to local school administrative units."

44 **SECTION 9.7.(l)** G.S. 115C-404(b) reads as rewritten:

45 "(b) Documents received under this section shall be used only to protect the safety of or
46 to improve the education opportunities for the student or others. Information gained in
47 accordance with G.S. 7B-3100 shall not be the sole basis for a decision to suspend or expel a
48 student. Upon receipt of each document, the principal shall share the document with those
49 individuals who have (i) direct guidance, teaching, or supervisory responsibility for the student,
50 and (ii) a specific need to know in order to protect the safety of the student or others. Those
51 individuals shall indicate in writing that they have read the document and that they agree to

1 maintain its confidentiality. Failure to maintain the confidentiality of these documents as
2 required by this section is grounds for the dismissal of an employee who is not employed on
3 contract, grounds for dismissal of an employee on contract not a career employee in accordance
4 with G.S. 115C-325.4(a)(9), and is grounds for dismissal of an employee who is a career
5 employee, teacher in accordance with G.S. 115C-325(e)(1)i."

6 **SECTION 9.7.(m)** G.S. 143B-146.7(b) reads as rewritten:

7 "(b) At any time after the State Board identifies a school as low-performing under this
8 Part, the ~~Secretary~~ State Board shall proceed under G.S. 115C-325(p1) or G.S. 115C-325.11
9 for the dismissal of ~~certificated~~ licensed instructional personnel assigned to that school."

10 **SECTION 9.7.(n)** G.S. 143B-146.8 reads as rewritten:

11 **"§ 143B-146.8. Evaluation of ~~certificated~~ licensed personnel and principals; action plans;**
12 **State Board notification.**

13 (a) Annual Evaluations; Low-Performing Schools. – The principal shall evaluate at
14 least once each year all ~~certificated~~ licensed personnel assigned to a participating school that
15 has been identified as low-performing but has not received an assistance team. The evaluation
16 shall occur early enough during the school year to provide adequate time for the development
17 and implementation of an action plan if one is recommended under subsection (b) of this
18 section. If the employee is a teacher as defined under ~~G.S. 115C-325(a)(6),~~
19 G.S. 115C-325(a)(6) with career status or a teacher as defined in G.S. 115C-325.1(5) on
20 contract, either the principal or an assessment team assigned under G.S. 143B-146.9 shall
21 conduct the evaluation. If the employee is a school administrator as defined under
22 G.S. 115C-287.1(a)(3), the Superintendent shall conduct the evaluation.

23 Notwithstanding this subsection or any other law, the principal shall observe at least three
24 times annually, a teacher shall observe at least once annually, and the principal shall evaluate at
25 least once annually, all teachers who have ~~not attained career status~~ been employed for less
26 than three consecutive years. All other employees defined as teachers under
27 G.S. 115C-325(a)(6) with career status or teachers as defined in G.S. 115C-325.1(5) on a
28 four-year contract who are assigned to participating schools that are not designated as
29 low-performing shall be evaluated annually unless the ~~Secretary~~ State Board adopts rules that
30 allow specified categories of teachers with career status or on four-year contracts to be
31 evaluated more or less frequently. The ~~Secretary~~ State Board also may adopt rules requiring the
32 annual evaluation of ~~noncertificated~~ nonlicensed personnel. This section shall not be construed
33 to limit the duties and authority of an assistance team assigned to a low-performing school.

34 The ~~Secretary~~ shall use the State Board's performance standards and criteria unless the
35 ~~Secretary~~ develops an alternative evaluation that is properly validated and that includes
36 standards and criteria similar to those adopted by the State Board. All other provisions of this
37 section shall apply if an evaluation is used other than one adopted by the State Board.

38 (b) Action Plans. – If a ~~certificated~~ licensed employee in a participating school that has
39 been identified as low-performing receives an unsatisfactory or below standard rating on any
40 function of the evaluation that is related to the employee's instructional duties, the individual or
41 team that conducted the evaluation shall recommend to the principal that: (i) the employee
42 receive an action plan designed to improve the employee's performance; or (ii) the principal
43 recommend to the ~~Secretary~~ that the employee who is a career teacher be dismissed or demoted
44 as provided in G.S. 115C-325 or the employee who is a teacher on contract not be
45 recommended for renewal; or (iii) if the employee who is a teacher on contract engages in
46 inappropriate conduct or performs inadequately to such a degree that such conduct or
47 performance causes substantial harm to the educational environment that a proceeding for
48 immediate dismissal or demotion under G.S. 115C-325.4 be instituted. The principal shall
49 determine whether to develop an action ~~plan~~ plan, to not recommend renewal of the employee's
50 contract, or to recommend a dismissal proceeding. The person who evaluated the employee or
51 the employee's supervisor shall develop the action plan unless an assistance team or assessment

1 team conducted the evaluation. If an assistance team or assessment team conducted the
 2 evaluation, that team shall develop the action plan in collaboration with the employee's
 3 supervisor. Action plans shall be designed to be completed within 90 instructional days or
 4 before the beginning of the next school year. The State Board, ~~in consultation with the~~
 5 ~~Secretary, Board~~ shall develop guidelines that include strategies to assist in evaluating
 6 ~~certificated-licensed~~ personnel and developing effective action plans within the time allotted
 7 under this section. The ~~Secretary-State Board~~ may adopt policies for the development and
 8 implementation of action plans or professional development plans for personnel who do not
 9 require action plans under this section.

10 (c) Reevaluation. – Upon completion of an action plan under subsection (b) of this
 11 section, the principal or the assessment team shall evaluate the employee a second time. If on
 12 the second evaluation the employee receives one unsatisfactory or more than one below
 13 standard rating on any function that is related to the employee's instructional duties, the
 14 principal shall recommend that the employee with career status be dismissed or demoted under
 15 G.S. 115C-325, or that an employee's contract not be renewed or if the employee engages in
 16 inappropriate conduct or performs inadequately to such a degree that such conduct or
 17 performance causes substantial harm to the educational environment, that the employee be
 18 dismissed or demoted under G.S. 115C-325.4. The results of the second
 19 evaluation shall constitute substantial evidence of the employee's inadequate performance.

20 (d) State Board Notification. – ~~If the Secretary dismisses an employee is dismissed for~~
 21 ~~any reason except a reduction in force under G.S. 115C-325(e)(1), cause or an employee's~~
 22 contract is not renewed as a result of a superintendent's recommendation under subsection (b)
 23 or (c) of this section, the Secretary shall notify the State Board shall be notified of the action,
 24 and the State Board annually shall provide to all local boards of education the names of those
 25 individuals. If a local board hires one of these individuals, that local board shall proceed under
 26 G.S. 115C-333(d).

27"

28 **SECTION 9.7.(o)** G.S. 115C-105.38A, as amended by subsection (c) of this
 29 section, reads as rewritten:

30 "**§ 115C-105.38A. Teacher competency assurance.**

31 ...

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

37 ...

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

40 (1) The dismissal of a principal under G.S. 115C-325.12.

41 (2) The dismissal of a teacher, assistant principal, director, or supervisor under
 42 ~~G.S. 115C-325(q)(2)~~ ~~or~~ G.S. 115C-325.13.

43 (3) The dismissal or demotion of an employee for any of the grounds listed
 44 under ~~G.S. 115C-325(e)~~ ~~or~~ G.S. 115C-325.4.

45 (4) The nonrenewal of a school administrator's or teacher's contract of
 46 employment.

47"

48 **SECTION 9.7.(p)** G.S. 115C-105.39(b), as amended by subsection (d) of this
 49 section, reads as rewritten:

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

4 "

5 **SECTION 9.7.(q)** G.S. 115C-238.29F(e)(3) reads as rewritten:

6 "(3) If a teacher employed by a local school administrative unit makes a written
7 request for a leave of absence to teach at a charter school, the local school
8 administrative unit shall grant the leave for one year. For the initial year of a
9 charter school's operation, the local school administrative unit may require
10 that the request for a leave of absence be made up to 45 days before the
11 teacher would otherwise have to report for duty. After the initial year of a
12 charter school's operation, the local school administrative unit may require
13 that the request for a leave of absence be made up to 90 days before the
14 teacher would otherwise have to report for duty. A local board of education
15 is not required to grant a request for a leave of absence or a request to extend
16 or renew a leave of absence for a teacher who previously has received a
17 leave of absence from that school board under this subdivision. A teacher
18 who has ~~career status under G.S. 115C-325~~ prior to ~~receiving~~received a
19 leave of absence to teach at a charter school may return to a public school in
20 the local school administrative unit ~~with career status~~ at the end of the leave
21 of absence or upon the end of employment at the charter school if an
22 appropriate position is available. ~~If an appropriate position is unavailable, the~~
23 ~~teacher's name shall be placed on a list of available teachers and that teacher~~
24 ~~shall have priority on all positions for which that teacher is qualified in~~
25 ~~accordance with G.S. 115C-325(e)(2)."~~

26 **SECTION 9.7.(r)** G.S. 115C-238.68(3), as amended by subsection (e) of this
27 section, reads as rewritten:

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

48 **SECTION 9.7.(s)** G.S. 115C-333, as amended by subsection (i) of this section,
49 reads as rewritten:

1 "§ 115C-333. Evaluation of licensed employees including certain superintendents;
2 mandatory improvement plans; State board notification upon dismissal of
3 employees.

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

14 All teachers in low-performing schools who have been employed for less than three
15 consecutive years shall be observed at least three times annually by the principal or the
16 principal's designee and at least once annually by a teacher and shall be evaluated at least once
17 annually by a principal. This section shall not be construed to limit the duties and authority of
18 an assistance team assigned to a low-performing school under G.S. 115C-105.38.

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

22 (b) Mandatory Improvement Plans. –

23 ...

24 (2a) If a licensed employee in a low-performing school receives a rating on any
25 standard on an evaluation that is below proficient or otherwise represents
26 unsatisfactory or below standard performance in an area that the licensed
27 employee was expected to demonstrate, the individual or team that
28 conducted the evaluation shall recommend to the superintendent that (i) the
29 employee receive a mandatory improvement plan designed to improve the
30 employee's performance, (ii) the superintendent recommend to the local
31 board that ~~if the employee is a career status teacher the employee be~~
32 ~~dismissed or demoted and if the employee is a teacher on contract the~~
33 ~~teacher's employee's~~ contract not be recommended for renewal, or (iii) if the
34 employee engaged in inappropriate conduct or performed inadequately to
35 such a degree that such conduct or performance causes substantial harm to
36 the educational environment that a proceeding for immediate dismissal or
37 demotion be instituted. If the individual or team that conducted the
38 evaluation elects not to make any of the above recommendations, the said
39 individual or team shall notify the superintendent of this decision. The
40 superintendent shall determine whether to develop a mandatory
41 improvement plan, to not recommend renewal of the employee's contract, or
42 to recommend a dismissal proceeding.

43 ...

44 (c) Reassessment of Employee in a Low-Performing School. – After the expiration of
45 the time period for the mandatory improvement plan under subdivision (2a) of subsection (b) of
46 this section, the superintendent, the superintendent's designee, or the assistance team shall
47 assess the performance of the employee of the low-performing school a second time. If the
48 superintendent, superintendent's designee, or assistance team determines that the employee has
49 failed to become proficient in any of the performance standards articulated in the mandatory
50 improvement plan or demonstrate sufficient improvement toward such standards, the
51 superintendent shall recommend that ~~if the employee is a teacher with career status the teacher~~

1 ~~be dismissed or demoted under G.S. 115C-325, or if the employee is a teacher on contract the~~
2 ~~employee's contract not be renewed or if the employee has engaged in inappropriate conduct or~~
3 ~~performed inadequately to such a degree that such conduct or performance causes substantial~~
4 ~~harm to the educational environment, that the employee be immediately dismissed or demoted~~
5 ~~under G.S. 115C-325.4. The results of the second assessment shall constitute substantial~~
6 ~~evidence of the employee's inadequate performance.~~

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

28"

29 **SECTION 9.7.(t)** G.S. 115C-333.1, as amended by subsection (j) of this section,
30 reads as rewritten:

31 **"§ 115C-333.1. Evaluation of teachers in schools not identified as low-performing;**
32 **mandatory improvement plans; State Board notification upon dismissal of**
33 **teachers.**

34 (a) Annual Evaluations. – All teachers who are assigned to schools that are not
35 designated as low-performing and who have not been employed for at least three consecutive
36 years shall be observed at least three times annually by the principal or the principal's designee
37 and at least once annually by a teacher and shall be evaluated at least once annually by a
38 principal. All teachers ~~with career status or on a four-year contract~~who have been employed for
39 three or more years who are assigned to schools that are not designated as low-performing shall
40 be evaluated annually unless a local board adopts rules that allow teachers ~~with career status or~~
41 ~~on a four-year contract~~employed for three or more years to be evaluated more or less
42 frequently, provided that such rules are not inconsistent with State or federal requirements.
43 Local boards also may adopt rules requiring the annual evaluation of nonlicensed employees. A
44 local board shall use the performance standards and criteria adopted by the State Board and
45 may adopt additional evaluation criteria and standards. All other provisions of this section shall
46 apply if a local board uses an evaluation other than one adopted by the State Board.

47 ...

48 (d) Reassessment of the Teacher. – Upon completion of a mandatory improvement plan
49 under subsection (b) of this section, the principal shall assess the performance of the teacher a
50 second time. The principal shall also review and consider any report provided by the qualified
51 observer under subsection (c) of this section if one has been submitted before the end of the

1 mandatory improvement plan period. If, after the second assessment of the teacher and
2 consideration of any report from the qualified observer, the superintendent or superintendent's
3 designee determines that the teacher has failed to become proficient in any of the performance
4 standards identified as deficient in the mandatory improvement plan or demonstrate sufficient
5 improvement toward such standards, the superintendent may recommend that ~~a teacher with~~
6 ~~career status be dismissed or demoted under G.S. 115C-325, or if the teacher is on contract that~~
7 ~~the teacher's contract not be renewed-renewed, or if the teacher has engaged in inappropriate~~
8 ~~conduct or performed inadequately to such a degree that such conduct or performance causes~~
9 ~~substantial harm to the educational environment, that the teacher be immediately dismissed or~~
10 ~~demoted under G.S. 115C-325.4. The results of the second assessment produced pursuant to the~~
11 ~~terms of this subsection shall constitute substantial evidence of the teacher's inadequate~~
12 ~~performance.~~

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

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

45"

46 **SECTION 9.7.(u)** Article 23 of Chapter 115C of the General Statutes is amended
47 by adding a new section to read:

48 **"§ 115C-344. Employment benefits for exchange teachers.**

49 An exchange teacher is a nonimmigrant alien teacher participating in an exchange visitor
50 program designated by the United States Department of State pursuant to 22 C.F.R. Part 62 or
51 by the United States Department of Homeland Security pursuant to 8 C.F.R. Part 214.2(q). For

1 purposes of determining eligibility to receive employment benefits under this Chapter,
2 including personal leave, annual vacation leave, and sick leave, an exchange teacher shall be
3 considered a permanent teacher if employed with the expectation of at least six full consecutive
4 monthly pay periods of employment and if employed at least 20 hours per week. An exchange
5 teacher is not a teacher for purposes of the Teachers' and State Employees' Retirement System
6 of North Carolina as provided in G.S. 135-1(25)."

7 **SECTION 9.7.(v)** G.S. 115C-404(b), as amended by subsection (n) of this section,
8 reads as rewritten:

9 "(b) Documents received under this section shall be used only to protect the safety of or
10 to improve the education opportunities for the student or others. Information gained in
11 accordance with G.S. 7B-3100 shall not be the sole basis for a decision to suspend or expel a
12 student. Upon receipt of each document, the principal shall share the document with those
13 individuals who have (i) direct guidance, teaching, or supervisory responsibility for the student,
14 and (ii) a specific need to know in order to protect the safety of the student or others. Those
15 individuals shall indicate in writing that they have read the document and that they agree to
16 maintain its confidentiality. Failure to maintain the confidentiality of these documents as
17 required by this section is grounds for the dismissal of an employee who is not employed on
18 ~~contract,~~ contract and grounds for dismissal of an employee on contract in accordance with
19 ~~G.S. 115C-325.4(a)(9).~~ G.S. 115C-325.4(a)(9), and grounds for dismissal of an employee who
20 ~~is a career teacher in accordance with G.S. 115C-325(e)(1)i."~~

21 **SECTION 9.7.(w)** G.S. 143B-146.7(b), as amended by subsection (m) of this
22 section, reads as rewritten:

23 "(b) At any time after the State Board identifies a school as low-performing under this
24 Part, the State Board shall proceed under ~~G.S. 115C-325(p1)~~ or G.S. 115C-325.11 for the
25 dismissal of licensed instructional personnel assigned to that school."

26 **SECTION 9.7.(x)** G.S. 143B-146.8, as amended by subsection (n) of this section,
27 reads as rewritten:

28 **"§ 143B-146.8. Evaluation of licensed personnel and principals; action plans; State Board**
29 **notification.**

30 (a) Annual Evaluations; Low-Performing Schools. – The principal shall evaluate at
31 least once each year all licensed personnel assigned to a participating school that has been
32 identified as low-performing but has not received an assistance team. The evaluation shall
33 occur early enough during the school year to provide adequate time for the development and
34 implementation of an action plan if one is recommended under subsection (b) of this section. If
35 the employee is a ~~teacher as defined under G.S. 115C-325(a)(6) with career status or a teacher~~
36 ~~as defined in G.S. 115C-325.1(5) on contract,~~ G.S. 115C-325.1(5), either the principal or an
37 assessment team assigned under G.S. 143B-146.9 shall conduct the evaluation. If the employee
38 is a school administrator as defined under G.S. 115C-287.1(a)(3), the Superintendent shall
39 conduct the evaluation.

40 Notwithstanding this subsection or any other law, the principal shall observe at least three
41 times annually, a teacher shall observe at least once annually, and the principal shall evaluate at
42 least once annually, all teachers who have been employed for less than three consecutive years.
43 All other employees who have been employed for three or more years and are defined as
44 ~~teachers under G.S. 115C-325(a)(6) with career status or teachers as defined in~~
45 G.S. 115C-325.1(5) on a four-year contract who are assigned to participating schools that are
46 not designated as low-performing shall be evaluated annually unless the State Board adopts
47 rules that allow specified categories of teachers with ~~career status or on four-year contracts~~
48 three or more years employment to be evaluated more or less frequently. The State Board also may
49 adopt rules requiring the annual evaluation of nonlicensed personnel. This section shall not be
50 construed to limit the duties and authority of an assistance team assigned to a low-performing
51 school.

1 (b) Action Plans. – If a licensed employee in a participating school that has been
2 identified as low-performing receives an unsatisfactory or below standard rating on any
3 function of the evaluation that is related to the employee's instructional duties, the individual or
4 team that conducted the evaluation shall recommend to the principal that: (i) the employee
5 receive an action plan designed to improve the employee's performance; or (ii) ~~the principal~~
6 ~~recommend that the employee who is a career teacher be dismissed or demoted as provided in~~
7 ~~G.S. 115C-325 or the employee who is a teacher on contract~~ the employee's contract not be
8 recommended for renewal; or (iii) if the employee who is a teacher on contract engages in
9 inappropriate conduct or performs inadequately to such a degree that such conduct or
10 performance causes substantial harm to the educational environment that a proceeding for
11 immediate dismissal or demotion under G.S. 115C-325.4 be instituted. The principal shall
12 determine whether to develop an action plan, to not recommend renewal of the employee's
13 contract, or to recommend a dismissal proceeding. The person who evaluated the employee or
14 the employee's supervisor shall develop the action plan unless an assistance team or assessment
15 team conducted the evaluation. If an assistance team or assessment team conducted the
16 evaluation, that team shall develop the action plan in collaboration with the employee's
17 supervisor. Action plans shall be designed to be completed within 90 instructional days or
18 before the beginning of the next school year. The State Board shall develop guidelines that
19 include strategies to assist in evaluating licensed personnel and developing effective action
20 plans within the time allotted under this section. The State Board may adopt policies for the
21 development and implementation of action plans or professional development plans for
22 personnel who do not require action plans under this section.

23 (c) Reevaluation. – Upon completion of an action plan under subsection (b) of this
24 section, the principal or the assessment team shall evaluate the employee a second time. If on
25 the second evaluation the employee receives one unsatisfactory or more than one below
26 standard rating on any function that is related to the employee's instructional duties, the
27 principal shall recommend that the ~~employee with career status be dismissed or demoted under~~
28 ~~G.S. 115C-325, or that an employee on~~ employee's contract not be ~~renewed~~ renewed, or if the
29 employee engages in inappropriate conduct or performs inadequately to such a degree that such
30 conduct or performance causes substantial harm to the educational environment, that the
31 employee be dismissed or demoted under G.S. 115C-325.4. The results of the second
32 evaluation shall constitute substantial evidence of the employee's inadequate performance.

33"

34 **SECTION 9.7.(y)** Subsections (a) through (n) of this section become effective July
35 1, 2014. Subsections (o) through (x) become effective June 30, 2018.

36 37 **PART X. COMMUNITY COLLEGES**

38 39 **REORGANIZATION OF THE COMMUNITY COLLEGES SYSTEM OFFICE**

40 **SECTION 10.1.(a)** Notwithstanding any other provision of law, and consistent
41 with the authority established in G.S. 115D-3, the President of the North Carolina Community
42 College System may reorganize the System Office in accordance with recommendations and
43 plans submitted to and approved by the State Board of Community Colleges.

44 **SECTION 10.1.(b)** This section expires June 30, 2014.

45 46 **CARRYFORWARD OF COLLEGE INFORMATION SYSTEM FUNDS**

47 **SECTION 10.2.** Of the funds appropriated to the Community Colleges System
48 Office for the 2013-2015 fiscal biennium for the College Information System, up to one million
49 two hundred fifty thousand dollars (\$1,250,000) shall not revert at the end of each fiscal year
50 but shall remain available until expended. These funds may be used only to purchase periodic
51 system upgrades.

BASIC SKILLS PLUS

SECTION 10.3.(a) Notwithstanding any other provision of law, the State Board of Community Colleges may authorize a local community college to use up to twenty percent (20%) of the State Literacy Funds allocated to it to provide employability skills, job-specific occupational and technical skills, and developmental education instruction to students concurrently enrolled in a community college course leading to a high school diploma or equivalent certificate.

SECTION 10.3.(b) Notwithstanding any other provision of law, if a community college is authorized by the State Board to provide employability skills, job-specific occupational or technical skills, or developmental education instruction to students concurrently enrolled in a community college course leading to a high school diploma or equivalent certificate, the college may waive the tuition and registration fees associated with this instruction.

ENROLLMENT FUNDING

SECTION 10.4.(a) Beginning with the 2013-2015 fiscal biennium, community colleges shall receive funding based on the number of full-time equivalent (FTE) students enrolled in curriculum, continuing education, and Basic Skills courses, by tiered funding level. Community colleges shall calculate this enrollment as the higher of the current year's total enrollment or the average enrollment of the last two academic years.

The State Board of Community Colleges shall report to the Joint Legislative Education Oversight Committee by February 1, 2014, on the use of nonrecurring funds appropriated to it to phase in this new enrollment funding model.

SECTION 10.4.(b) G.S. 115D-5 is amended by adding a new subsection to read:

"(v) Community colleges may teach technical education, health care, developmental education, and STEM-related courses at any time during the year, including the summer term. Student membership hours from these courses shall be counted when computing full-time equivalent students (FTE) for use in budget funding formulas at the State level."

SECTION 10.4.(c) The State Board of Community Colleges shall report to the Joint Legislative Education Oversight Committee by October 1, 2014, on FTE for the 2014 summer term.

SECTION 10.4.(d) Subsection (b) of this section is effective when it becomes law and applies beginning with the summer 2014 term.

PERFORMANCE FUNDING

SECTION 10.5.(a) G.S. 115D-31.3 reads as rewritten:

"§ 115D-31.3. Institutional performance accountability.

(a) ~~Creation~~Implementation of Accountability Measures and Performance Standards. – The State Board of Community Colleges shall ~~create new~~adopt and implement a system of accountability measures and performance standards for the Community College System. ~~The~~At least once every three years, the State Board of Community Colleges shall ~~review~~review, and revise if necessary, annually the accountability measures and performance standards to ensure that they are appropriate for use in recognition of successful institutional performance. If the State Board determines that accountability measures and performance standards must be revised following a review required by this subsection, the State Board shall report to the Joint Legislative Education Oversight Committee prior to the implementation of any proposed revisions.

(b) through (d) Repealed by Session Laws 2000-67, s. 9.7, effective July 1, 2000.

(e) **Mandatory Performance Measures.** – The State Board of Community Colleges shall evaluate each college on the following eight performance measures:

- 1 (1) Progress of basic skills students.
- 2 (2) ~~Passing rate for~~Attainment of General Educational Development (GED)
- 3 ~~diploma examinations-diplomas by students.~~
- 4 (3) Performance of students who transfer to a four-year institution.
- 5 (4) Success ~~rates~~-of developmental students in subsequent college-level English
- 6 courses.
- 7 (5) Success ~~rates~~-of developmental students in subsequent college-level math
- 8 courses.
- 9 (5a) Progress of first-year curriculum students.
- 10 (6) Repealed by Session Laws 2012-142, s. 8.5, effective July 1, 2012.
- 11 (7) Curriculum student retention and graduation.
- 12 (8) Repealed by Session Laws 2012-142, s. 8.5, effective July 1, 2012.
- 13 (9) ~~Passing rate for~~Attainment of licensure and ~~eertification~~
- 14 ~~examinations-certifications by students.~~

15 The State Board may also evaluate each college on additional performance measures.

16 (f) Publication of Performance Ratings. – Each college shall publish its performance on
17 the eight measures set out in subsection (e) of this section (i) annually in its electronic catalog
18 or on the Internet and (ii) in its printed catalog each time the catalog is reprinted.

19 The Community Colleges System Office shall publish the performance of all colleges on all
20 eight measures.

21 (g) ~~Recognition for~~of Successful Institutional Performance. – For the purpose of
22 recognition ~~for~~of successful institutional performance, the State Board of Community Colleges
23 shall evaluate each college on the eight performance ~~measures-measures~~ set out in subsection
24 (e) of this section. ~~For each of these eight performance measures on which a college performs~~
25 ~~successfully, the college may retain and carry forward into the next fiscal year one fourth of~~
26 ~~one percent (1/4 of 1%) of its final fiscal year General Fund appropriations.~~Subject to the
27 availability of funds, the State Board may allocate funds among colleges based on the
28 evaluation of each institution's performance, including at least the following components:

- 29 (1) Program quality evaluated by determining a college's rate of student success
30 on each measure as compared to a systemwide performance baseline and
31 goal.
- 32 (2) Program impact on student outcomes evaluated by the number of students
33 succeeding on each measure.

34 (g1) Carryforward of Funds Allocated Based on Performance. – A college that receives
35 funds under subsection (g) of this section may retain and carry forward an amount up to or
36 equal to its performance-based funding allocation for that year into the next fiscal year.

37 (h) ~~Recognition for Exceptional Institutional Performance.~~— ~~Funds not allocated to~~
38 ~~colleges in accordance with subsection (g) of this section shall be used to reward exceptional~~
39 ~~institutional performance. A college is deemed to have achieved exceptional institutional~~
40 ~~performance if it succeeds on all eight performance measures. After all State aid budget~~
41 ~~obligations have been met, the State Board of Community Colleges shall distribute the~~
42 ~~remainder of these funds to colleges that achieve exceptional institutional performance status~~
43 ~~based on the pro rata share of total full time equivalent (FTE) students served at each college.~~
44 ~~The State Board may withhold the portion of funds for which a college may qualify as an~~
45 ~~exceptional institution while the college is under investigation by a State or federal agency or if~~
46 ~~its performance does not meet the standards established by the Southern Association of~~
47 ~~Colleges and Schools, the State Auditor's Office, or the State Board of Community Colleges.~~
48 ~~The State Board may release the funds at such time as the investigations are complete and the~~
49 ~~issues are resolved.~~

50 (i) ~~Permissible Uses of Funds.~~— ~~Funds retained by colleges or distributed to colleges~~
51 ~~pursuant to this section shall be used for the purchase of equipment, initial program start-up~~

1 eosts including faculty salaries for the first year of a program, and one-time faculty and staff
2 bonuses. These funds shall not be used for continuing salary increases or for other obligations
3 beyond the fiscal year into which they were carried forward. These funds shall be encumbered
4 within 12 months of the fiscal year into which they were carried forward.

5 (j) Use of funds in low-wealth counties. — Funds retained by colleges or distributed to
6 colleges pursuant to this section may be used to supplement local funding for maintenance of
7 plant if the college does not receive maintenance of plant funds pursuant to G.S. 115D-31.2,
8 and if the county in which the main campus of the community college is located meets all of
9 the following:

10 (1) Is designated as a Tier 1 county in accordance with G.S. 143B-437.08.

11 (2) Had an unemployment rate of at least two percent (2%) above the State
12 average or greater than seven percent (7%), whichever is higher, in the prior
13 calendar year.

14 (3) Is a county whose wealth, as calculated under the formula for distributing
15 supplemental funding for schools in low-wealth counties, is eighty percent
16 (80%) or less of the State average.

17 Funds may be used for this purpose only after all local funds appropriated for maintenance
18 of plant have been expended."

19 **SECTION 10.5.(b)** Section 9.2(b) of S.L. 1999-237 is repealed.

20 **SECTION 10.5.(c)** Section 8.6 of S.L. 2012-142 is repealed.

21 **SECTION 10.5.(d)** Effective only for the 2011-2012 reporting year, and
22 notwithstanding G.S. 115D-31.3, the State Board of Community Colleges shall not require a
23 college to report its performance on the progress of basic skills students as part of the
24 mandatory performance standards prescribed by G.S. 115D-31.3(e), as amended by this
25 section. In distributing performance-based funding allocations for the 2013-2014 fiscal year,
26 notwithstanding G.S. 115D-31.3, the State Board of Community Colleges shall not consider the
27 progress of basic skills students or the attainment of GED diplomas for the purpose of
28 recognizing successful institutional performance. However, the State Board of Community
29 Colleges shall distribute a portion of the Basic Skills block grant appropriated under this act for
30 the 2013-2014 fiscal year based on the number of GED diplomas awarded by each college.

31 **SECTION 10.5.(e)** Beginning with the 2012-2013 reporting year, the State Board
32 of Community Colleges shall require a college to report its performance on all eight of the
33 mandatory performance standards prescribed by G.S. 115D-31.3(e), as amended by this
34 section.

35 **SECTION 10.5.(f)** Beginning with the 2014-2015 fiscal year, the State Board of
36 Community Colleges shall allocate three million three hundred thirty-three thousand three
37 hundred thirty-three dollars (\$3,333,333) of the Basic Skills block grant in accordance with
38 G.S. 115D-31.3(g), as amended by this section.

40 **REPEAL OF SENIOR CITIZEN TUITION WAIVER**

41 **SECTION 10.6.** G.S. 115D-5(b)(11) is repealed.

43 **STUDY OF THE APPROVAL PROCESS FOR MULTICAMPUS CENTERS**

44 **SECTION 10.7.** The State Board of Community Colleges shall develop a process
45 for approval of community college multicampus centers. The Board shall report to the Joint
46 Legislative Education Oversight Committee by January 1, 2014, on its plan for a multicampus
47 approval process and any statutory changes necessary to implement the plan.

49 **COOPERATION BY THE MANUFACTURING SOLUTIONS CENTER AND THE** 50 **TEXTILE TECHNOLOGY CENTER**

1 **SECTION 10.8.(a)** The General Assembly finds that the missions of both the
2 Manufacturing Solutions Center at Catawba Valley Community College and the Textile
3 Technology Center at Gaston College are to help North Carolina manufacturers create and
4 maintain jobs and increase sales.

5 The Manufacturing Solutions Center accomplishes this mission by (i) enhancing and
6 improving products through research and development; (ii) creating prototypes for new
7 products; (iii) analyzing new materials to enhance structure; (iv) testing products for reliability
8 and quality; (v) training personnel in Lean Manufacturing and Supply Chain strategies; (vi)
9 providing a forum for rollout of new technologies; (vii) providing hands-on assistance to
10 companies in the areas of international sales and government procurement; and (viii)
11 advocating for industry.

12 The Textile Technology Center accomplishes this mission by (i) developing a
13 world-class workforce for the textile industry in North Carolina; (ii) identifying and solving
14 problems confronting the textile industry; and (iii) serving as a statewide center of excellence
15 that serves all components of the textile industry.

16 **SECTION 10.8.(b)** The General Assembly further finds that the strategies of the
17 Manufacturing Solutions Center and the Textile Technology Center are complementary and
18 that cooperation by the Centers is in the best interest of the State; therefore, the General
19 Assembly directs the Centers to work cooperatively whenever possible to maximize the State's
20 ability to help North Carolina manufacturers create and maintain jobs and increase sales.

21
22 **EXPAND INDUSTRIAL AND ENGINEERING TECHNOLOGIES EDUCATION TO**
23 **FRESHMEN AND SOPHOMORE HIGH SCHOOL STUDENTS**

24 **SECTION 10.9.(a)** G.S. 115D-20(4)a.2. reads as rewritten:

25 **"§ 115D-20. Powers and duties of trustees.**

26 The trustees of each institution shall constitute the local administrative board of such
27 institution, with such powers and duties as are provided in this Chapter and as are delegated to
28 it by the State Board of Community Colleges. The powers and duties of trustees shall include
29 the following:

30 ...

31 (4) To apply the standards and requirements for admission and graduation of
32 students and other standards established by the State Board of Community
33 Colleges. Notwithstanding any law or administrative rule to the contrary,
34 local community colleges are permitted to offer the following programs:

35 a. Subject to the approval of the State Board of Community Colleges,
36 local community colleges may collaborate with local school
37 administrative units to offer courses through the following programs:

38 ...

39 2. Academic transition pathways for qualified junior and senior
40 high school students that lead to a career technical education
41 certificate or ~~diploma~~ diploma and academic transition
42 pathways for qualified freshmen and sophomore high school
43 students that lead to a career technical education certificate or
44 diploma in industrial and engineering technologies."

45 **SECTION 10.9.(b)** The Community Colleges System Office shall report to the
46 Joint Legislative Education Oversight Committee by October 1, 2014, and October 1, 2015, on
47 freshmen and sophomore students served under G.S. 115D-20(4)a.2., as amended by subsection
48 (a) of this section. The report shall include the number of and budget FTE for freshmen
49 students and the number of and budget FTE for sophomore students.

50
51 **STATE BOARD OF COMMUNITY COLLEGES MEETINGS**

1 **SECTION 10.10.** G.S. 115D-2.1(g) reads as rewritten:

2 "(g) The State Board of Community Colleges shall meet at stated times established by
3 the State Board, but not less frequently than ~~four~~eight times a year. The State Board of
4 Community Colleges shall also meet with the State Board of Education and the Board of
5 Governors of The University of North Carolina at least once a year to discuss educational
6 matters of mutual interest and to recommend to the General Assembly such policies as are
7 appropriate to encourage the improvement of public education at every level in this State; these
8 joint meetings shall be hosted by the three Boards according to the schedule set out in
9 G.S. 115C-11(b1). Special meetings of the State Board may be set at any regular meeting or
10 may be called by the chairman. A majority of the qualified members of the State Board shall
11 constitute a quorum for the transaction of business."
12

13 **ACQUISITION BY COMMUNITY COLLEGES OF REAL PROPERTY BY LEASE**
14 **PURCHASE**

15 **SECTION 10.11.(a)** G.S. 115D-58.15 reads as rewritten:

16 **"§ 115D-58.15. Lease purchase and installment purchase contracts for**
17 **equipment, equipment and real property.**

18 (a) Authority. – ~~The~~Notwithstanding any other provision of law to the contrary, the
19 board of trustees of a community college may use lease purchase or installment purchase
20 contracts to purchase or finance the purchase of equipment or real property as provided in this
21 section. A college shall not have more than five State-funded contracts in effect at any one
22 time.

23 (b) Contract Approval. – Contracts for more than one hundred thousand dollars
24 (\$100,000) or for a term of more than three years shall be subject to review and approval as
25 provided in this subsection. If the source of funds for payment of the obligation by the
26 community college is intended to be local funds, the contract must be approved by resolution of
27 the tax-levying authority, and the authority must acknowledge in writing its understanding that
28 the community college may require appropriations from the tax-levying authority in order to
29 meet the college's obligations under the contract. The tax-levying authority may in each fiscal
30 year appropriate sufficient funds to meet the amounts to be paid during the fiscal year under the
31 contract. The source of funds for lease purchase or installment purchase contracts for real
32 property shall be local funds. If the source of funds for payment of the obligation by the
33 community college is intended to be State funds, the contract must be approved by resolution of
34 the State Board of Community Colleges. The State Board may in each fiscal year allocate
35 sufficient funds to meet the amounts to be paid during the fiscal year under the contract.

36 (c) Local Government Commission. – A contract that is subject to approval by the
37 tax-levying authority also shall be subject to approval by the Local Government Commission as
38 provided in Article 8 of Chapter 159 of the General Statutes if the contract:

- 39 (1) Extends for five or more years from the date of the contract;
40 (2) Obligates the board of trustees to pay sums of money to another, regardless
41 of whether the payee is a party to the contract; and
42 (3) Obligates the board of trustees to pay five hundred thousand dollars
43 (\$500,000) or more over the full term of the contract.

44 (d) Application of Section. – When determining whether a contract is subject to
45 approval under this section the total cost of exercising an option to upgrade property shall be
46 taken into consideration. The term of a contract shall include periods that may be added to the
47 original term through the exercise of an option to renew or extend.

48 (e) Nonsubstitution Clause. – No contract entered into under this section may contain a
49 nonsubstitution clause that restricts the right of a board of trustees to:

- 50 (1) Continue to provide a service or activity; or

1 (2) Replace or provide a substitute for any property financed or purchased by
2 the contract.

3 (f) Nonappropriations Clause. – No deficiency judgment may be rendered against any
4 board of trustees, any tax-levying authority, the State Board of Community Colleges, or the
5 State of North Carolina in any action for breach of a contractual obligation authorized by this
6 section. The taxing power of a tax-levying authority and the State is not and may not be
7 pledged directly or indirectly to secure any moneys due under a contract authorized by this
8 section."

9 **SECTION 10.11.(b)** G.S. 115D-20(11) reads as rewritten:

10 "(11) To enter into lease purchase and installment purchase contracts for
11 equipment and real property under G.S. 115D-58.15."

13 CLARIFY EMPLOYEE ACADEMIC ASSISTANCE

14 **SECTION 10.12.** G.S. 115D-5(b1) reads as rewritten:

15 "(b1) The State Board of Community Colleges shall not waive tuition and registration fees
16 for community college faculty or staff members. Community colleges may, however, use State
17 or local funds to pay tuition and registration fees for one course per semester for full-time
18 community college faculty or staff members employed for a nine-, ten-, eleven-, or
19 twelve-month term. Community colleges may also use State and local funds to pay tuition and
20 registration fees for professional development courses and for other courses consistent with the
21 academic assistance program authorized by the State Personnel Commission."

23 REVISE TARGETED ASSISTANCE CRITERIA

24 **SECTION 10.13.** G.S. 115D-40.1(b) reads as rewritten:

25 "(b) Targeted Assistance. – Notwithstanding subsection (a) of this section, the State
26 Board may allocate ~~no more than~~ up to ten percent (10%) of the funds appropriated for
27 Financial Assistance for Community College Students ~~to~~ to the following students:

28 (1) Students who ~~do not qualify for need-based assistance but who~~ enroll in
29 low-enrollment programs that prepare students for high-demand
30 ~~occupations, and occupations.~~

31 (2) Students with disabilities who have been referred by the Department of
32 Health and Human Services, Division of Vocational Rehabilitation
33 Rehabilitation, and are enrolled in a community college."

35 REPURPOSE OF FUNDS

36 **SECTION 10.14.(a)** Of the funds appropriated to Forsyth Technical Community
37 College in fiscal year 2005-2006 for the construction of the Center for Emerging Technologies
38 at Forsyth Technical Community College, the sum of three million dollars (\$3,000,000) for
39 fiscal year 2013-2014 shall be transferred by the State Treasurer to Budget Code 26800 to be
40 administered by the North Carolina Community Colleges System Office. The Community
41 Colleges System Office shall allocate up to three hundred thousand dollars (\$300,000) of these
42 funds each fiscal year to Forsyth Technical Community College for the operating costs and
43 lease expenses for the community college's biotechnology, nanotechnology, design, and
44 advanced information technology programs; Small Business Center; and Corporate and
45 Industrial Training programs. The Community Colleges System Office shall continue to
46 allocate these funds to Forsyth Technical Community College for this purpose until those funds
47 are expended. No additional State funds shall be made available to Forsyth Technical
48 Community College to be used for the purposes described in this section.

49 **SECTION 10.14.(b)** The State Treasurer shall transfer all funds in Budget Codes
50 40520 and 40620 that are unencumbered as of July 1, 2013, except those funds to be transferred
51 in accordance with subsection (a) of this section, to Budget Code 16800. Of the funds

1 transferred to Budget Code 16800 under this subsection, the State Board of Community
2 Colleges shall allocate those funds to community colleges under the equipment allocation
3 formula for the 2013-2014 fiscal year in accordance with G.S. 115D-31(d).
4

5 **PART XI. UNIVERSITIES**

7 **USE OF ESCHEAT FUND FOR NEED-BASED FINANCIAL AID PROGRAMS**

8 **SECTION 11.1.(a)** There is appropriated from the Escheat Fund income to the
9 Board of Governors of The University of North Carolina the sum of sixty-four million two
10 hundred eighty-seven thousand two hundred forty-two dollars (\$64,287,242) for the 2013-2014
11 fiscal year and the sum of thirty-seven million two hundred eighty-seven thousand two hundred
12 forty-two dollars (\$37,287,242) for the 2014-2015 fiscal year to be used for The University of
13 North Carolina Need-Based Financial Aid Program.

14 **SECTION 11.1.(b)** There is appropriated from the Escheat Fund income to the
15 State Board of Community Colleges the sum of fifteen million two hundred forty-six thousand
16 three hundred seventy-three dollars (\$15,246,373) for the 2013-2014 fiscal year and the sum of
17 sixteen million three hundred thirty-five thousand dollars (\$16,335,000) for the 2014-2015
18 fiscal year to be used for community college grants.

19 **SECTION 11.1.(c)** There is appropriated from the Escheat Fund income to the
20 Department of Administration, Division of Veterans Affairs, the sum of six million five
21 hundred twenty thousand nine hundred sixty-four dollars (\$6,520,964) for the 2013-2014 fiscal
22 year and the sum of six million five hundred twenty thousand nine hundred sixty-four dollars
23 (\$6,520,964) for the 2014-2015 fiscal year to be used for need-based student financial aid.

24 **SECTION 11.1.(d)** The funds appropriated by this section shall be allocated by the
25 State Educational Assistance Authority (SEAA) for need-based student financial aid in
26 accordance with G.S. 116B-7. If the interest income generated from the Escheat Fund is less
27 than the amounts referenced in this section, the difference may be taken from the Escheat Fund
28 principal to reach the appropriations referenced in this section; however, under no
29 circumstances shall the Escheat Fund principal be reduced below the sum required in
30 G.S. 116B-6(f). If any funds appropriated under this section remain uncommitted for
31 need-based financial aid as of the end of a fiscal year, the funds shall be returned to the Escheat
32 Fund, but only to the extent the funds exceed the amount of the Escheat Fund income for that
33 fiscal year.

34 **SECTION 11.1.(e)** The State Education Assistance Authority shall perform all of
35 the administrative functions necessary to implement this program of financial aid. The SEAA
36 shall conduct periodic evaluations of expenditures of the scholarship programs to determine if
37 allocations are utilized to ensure access to institutions of higher learning and to meet the goals
38 of the respective programs. SEAA may make recommendations for redistribution of funds to
39 The University of North Carolina, Department of Administration, and the President of the
40 Community College System regarding their respective scholarship programs, who then may
41 authorize redistribution of unutilized funds for a particular fiscal year.

42 **SECTION 11.1.(f)** G.S. 116B-7(a) reads as rewritten:

43 "(a) The income derived from the investment or deposit of the Escheat Fund shall be
44 distributed annually on or before ~~July 15~~ August 15 to the State Education Assistance Authority
45 for grants and loans to aid worthy and needy students who are residents of this State and are
46 enrolled in public institutions of higher education in this State. Such grants and loans shall be
47 made upon terms, consistent with the provisions of this Chapter, pursuant to which the State
48 Education Assistance Authority makes grants and loans to other students under G.S. 116-201 to
49 116-209.23, Article 23 of Chapter 116 of the General Statutes, policies of the Board of
50 Governors of The University of North Carolina regarding need-based grants for students of The

1 University of North Carolina, and policies of the State Board of Community Colleges regarding
2 need-based grants for students of the community colleges."
3

4 **UNC NEED-BASED FINANCIAL AID FORWARD FUNDING RESERVE/PROVIDE**
5 **FUNDS FOR UNC NEED-BASED GRANTS**

6 **SECTION 11.2.(a)** It is the intent of the General Assembly to move the UNC
7 Need-Based Financial Aid Program grant funding into a reserve in the North Carolina Student
8 Loan Fund designated for that purpose so that funds appropriated for grants in a fiscal year are
9 awarded to students for the following academic year. This change will provide additional
10 program stability.

11 **SECTION 11.2.(b)** The UNC Need-Based Financial Aid Forward Funding
12 Reserve is established as a reserve in the North Carolina Student Loan Fund. The funds in the
13 UNC Need-Based Financial Aid Forward Funding Reserve shall be held in reserve for the
14 2013-2014 fiscal year and, beginning with the 2014-2015 fiscal year, shall be used to fund
15 grants from the UNC Need-Based Financial Aid Program for the 2014-2015 program year and
16 each subsequent program year.

17 **SECTION 11.2.(c)** Section 6.11(e) of this act appropriates funds from the
18 Education Lottery Fund in the amount of fifty-five million one hundred twenty-eight thousand
19 six hundred twenty dollars (\$55,128,620) for the 2013-2014 fiscal year to the UNC
20 Need-Based Financial Aid Forward Funding Reserve. The following funds shall also be
21 transferred to the UNC Need-Based Financial Aid Forward Funding Reserve (Reserve):

- 22 (1) The sum of fifty-nine million eight hundred fifty-nine thousand five hundred
23 sixty-two dollars (\$59,859,562) shall be transferred from the North Carolina
24 Student Loan Fund to the Reserve.
- 25 (2) Of the funds appropriated by this act to the Board of Governors of The
26 University of North Carolina for the 2013-2015 fiscal biennium, the sum of
27 three million four hundred seventy-five thousand five hundred thirty-eight
28 dollars (\$3,475,538) for the 2013-2014 fiscal year and the sum of three
29 million four hundred fifty-four thousand six hundred fifty-six dollars
30 (\$3,454,656) for the 2014-2015 fiscal year shall be transferred to the
31 Reserve.
- 32 (3) Notwithstanding G.S. 115C-269.2, the sum of three million five hundred
33 twenty-five thousand dollars (\$3,525,000) shall be transferred from the fund
34 balance of the National Board Certification Loan program to the Reserve.
- 35 (4) The sum of five hundred thousand dollars (\$500,000) shall be transferred
36 from the John B. McLendon Scholarship Fund established in
37 G.S. 116-209.40 to the Reserve.

38 **SECTION 11.2.(d)** There is appropriated from the Escheat Fund for the
39 2013-2014 fiscal year to the UNC Need-Based Financial Aid Forward Funding Reserve the
40 sum of one million eighty-eight thousand six hundred twenty-seven dollars (\$1,088,627).

41 **SECTION 11.2.(e)** G.S. 116-209.40 is repealed.
42

43 **COORDINATED RESIDENCY DETERMINATION PROCESS**

44 **SECTION 11.3.(a)** The General Assembly finds that it is in the best interest of the
45 State for the University System, the Community College System, and the State Education
46 Assistance Authority to apply the criteria in G.S. 116-143.1 to determine residency for tuition
47 purposes in a coordinated and similar manner. Therefore, The University of North Carolina, the
48 North Carolina Community College System, and the State Education Assistance Authority shall
49 jointly develop and implement a coordinated and centralized process to be used by those three
50 entities when determining the residency for tuition purposes of students who apply for
51 admission and are admitted to a constituent institution of The University of North Carolina or a

1 community college under the jurisdiction of the State Board of Community Colleges and for
2 private college students receiving State-funded financial aid. In developing a centralized
3 residency determination process, The University of North Carolina General Administration, the
4 North Carolina Community College System, and the State Education Assistance Authority shall
5 consult with the North Carolina Independent Colleges and Universities.

6 **SECTION 11.3.(b)** No later than January 1, 2014, The University of North
7 Carolina, the North Carolina Community College System, and the State Education Assistance
8 Authority shall report to the Joint Legislative Education Oversight Committee regarding the
9 progress in developing and implementing a coordinated and centralized process and any
10 necessary statutory changes.

11 **IMPLEMENT TUITION SURCHARGE STUDY RECOMMENDATIONS**

12 **SECTION 11.4.(a)** G.S. 116-143.7 reads as rewritten:

13 **"§ 116-143.7. Tuition surcharge.**

14 (a) The Board of Governors of The University of North Carolina shall impose a fifty
15 percent (50%) tuition surcharge on students who take more than 140 degree credit hours to
16 complete a baccalaureate degree in a four-year program or more than one hundred ten percent
17 (110%) of the credit hours necessary to complete a baccalaureate degree in any program
18 officially designated by the Board of Governors as a five-year program. ~~Courses and credit~~
19 ~~hours taken include those taken at that constituent institution or accepted for transfer. Courses~~
20 ~~and credit hours that count toward the surcharge include those taken at that constituent~~
21 ~~institution and those taken at either another constituent institution or a community college~~
22 ~~established pursuant to G.S. 115D-4 and accepted for transfer.~~ In calculating the number of
23 degree credit hours taken:

24 (1) Included are courses that a student:

- 25 a. Fails.
26 b. Does not complete unless the course was officially dropped by the
27 student pursuant to the academic policy of the appropriate constituent
28 institution.

29 (2) Excluded are credit hours earned through:

- 30 a. The College Board's Advanced Placement Program, CLEP
31 examinations, or similar programs.
32 b. Institutional advanced placement, course validation, or any similar
33 procedure for awarding course credit.
34 c. Summer term or extension programs.
35 d. Courses and credit hours transferred and accepted for credit from an
36 institution of higher education that is not a constituent institution or a
37 community college established pursuant to G.S. 115D-4.

38 (b) No surcharge shall be imposed on any student who exceeds the degree credit hour
39 limits within the equivalent of four academic years of regular term enrollment or within five
40 academic years of regular term enrollment in a degree program officially designated by the
41 Board of Governors as a five-year program.

42 (c) Upon application by a student, the tuition surcharge shall be waived if the student
43 demonstrates that any of the following have substantially disrupted or interrupted the student's
44 pursuit of a degree: (i) a military service obligation, (ii) serious medical debilitation, (iii) a
45 short-term or long-term disability, or (iv) other extraordinary hardship. The Board of Governors
46 shall establish the appropriate procedures to implement the waiver provided by this subsection.

47 (d) Each constituent institution shall implement procedures to notify students regarding
48 the tuition surcharge and to provide appropriate advance notice to a student when the student is
49 approaching the credit hour limit regarding the tuition surcharge. The procedures shall comply
50 with the tuition surcharge notification principles established by the Board of Governors."
51

1 **SECTION 11.4.(b)** G.S. 116-11 is amended by adding a new subdivision to read:

2 "(7a) The Board of Governors shall develop a uniform core set of notification
3 principles regarding the tuition surcharge, including a process for each
4 campus to notify students at orientation and through each semester's tuition
5 statements and a process to provide appropriate advance notification to a
6 student when the student is approaching the credit hour limit regarding the
7 tuition surcharge. The Board of Governors shall direct each constituent
8 institution to implement these procedures."

9 **SECTION 11.4.(c)** This section applies to the 2013 fall academic semester and
10 each subsequent academic semester.

11 **UNC MANAGEMENT FLEXIBILITY REDUCTION**

12 **SECTION 11.5.(a)** The management flexibility reduction for The University of
13 North Carolina shall not be allocated by the Board of Governors to the constituent institutions
14 and affiliated entities using an across-the-board method but in a manner that recognizes the
15 importance of the academic missions and differences among The University of North Carolina
16 entities.
17

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 11.5.(b)** In allocating the management flexibility reduction, no
36 reduction in State funds shall be allocated in either fiscal year of the 2013-2015 biennium to
37 any of the following:

- 38 (1) UNC Need-Based Financial Aid.
- 39 (2) North Carolina Need-Based Scholarship.
- 40 (3) Any special responsibility constituent institution which has been granted a
41 basic type designation of "Special Focus Institution" under the Carnegie
42 Classification of Institutions of Higher Education.
- 43 (4) Any special responsibility constituent institution which has been granted a
44 basic type designation of "Baccalaureate Colleges–Arts & Sciences" under
45 the Carnegie Classification of Institutions of Higher Education.
- 46 (5) Any constituent high school of The University of North Carolina.

47 **SECTION 11.5.(c)** The University of North Carolina shall report on the
48 implementation of the management flexibility reduction in subsection (a) of this section to the
49 Office of State Budget and Management and the Fiscal Research Division no later than October
50 1, 2013. This report shall identify both of the following by campus:

- 51 (1) The total number of positions eliminated by type (faculty/nonfaculty).

- 1 (2) The low-performing, redundant, and low-enrollment programs that were
2 eliminated.
3

4 **UNC BOARD OF GOVERNORS REPORT ON OVERHEAD RECEIPTS**

5 **SECTION 11.6.(a)** G.S. 116-11 is amended by adding a new subdivision to read:

6 "(9a) The Board of Governors shall report to the Joint Legislative Education
7 Oversight Committee and the Office of State Budget and Management by
8 March 1 of each year regarding the sum of facilities and administrative fees
9 and overhead receipts for The University of North Carolina that are collected
10 and expended by each constituent institution. The report shall include all of
11 the following information:

- 12 a. The collection of facilities and administrative fees and overhead
13 receipts by line item and by grant or program.
14 b. The use of facilities and administrative fees and overhead receipts
15 showing line item expenditures by grant or program.
16 c. The sum of facilities and administrative fees and overhead receipts
17 collected or expended by each constituent institution for maintenance
18 and operation of facilities that were constructed with or at any time
19 operated by funds from the General Fund."

20 **SECTION 11.6.(b)** Section 31.14 of S.L. 2001-424 is repealed.
21

22 **STUDENT CHARGES AT THE NORTH CAROLINA SCHOOL OF SCIENCE AND** 23 **MATH**

24 **SECTION 11.7.(a)** G.S. 116-40.22 reads as rewritten:

25 "**§ 116-40.22. Management flexibility.**

26 ...
27 (c) Tuition and Fees. – Notwithstanding any provision in Chapter 116 of the General
28 Statutes to the contrary, in addition to any tuition and fees set by the Board of Governors
29 pursuant to G.S. 116-11(7), the Board of Trustees of the institution may recommend to the
30 Board of Governors tuition and fees for program-specific and institution-specific needs at that
31 institution without regard to whether an emergency situation exists and not inconsistent with
32 the actions of the General Assembly. Any tuition and fees set pursuant to this subsection are
33 appropriated for use by the institution. Notwithstanding this subsection, neither the Board of
34 Governors of The University of North Carolina nor its Board of Trustees shall impose any
35 tuition or mandatory fee at the North Carolina School of Science and Mathematics without the
36 approval of the General Assembly. Assembly, except as provided in subsection (e) of this
37 section.

38 ...
39 (e) The Board of Governors of The University of North Carolina may approve, upon
40 the recommendation of the Board of Trustees of the North Carolina School of Science and
41 Mathematics, the imposition of fees not inconsistent with actions of the General Assembly for
42 distance education services provided by the North Carolina School of Science and Mathematics
43 to nonresidents and for students participating in extracurricular enrichment programs sponsored
44 by the School."

45 **SECTION 11.7.(b)** G.S. 116-143 reads as rewritten:

46 "**§ 116-143. State-supported institutions of higher education required to charge tuition**
47 **and fees.**

48 ...
49 (b) In the event that said students are unable to pay the cost of tuition and required
50 academic fees as the same may become due, in cash, the said several boards of trustees are
51 hereby authorized and empowered, in their discretion, to accept the obligation of the student or

1 students together with such collateral or security as they may deem necessary and proper, it
2 being the purpose of this Article that all students in State institutions of higher learning shall be
3 required to pay tuition, and that free tuition is hereby abolished. Notwithstanding this section,
4 neither the Board of Governors of The University of North Carolina nor its Board of Trustees
5 shall impose any tuition or mandatory fee at the North Carolina School of Science and
6 Mathematics without the approval of the General Assembly, except as provided in
7 subsection (e) of this section.

8 ...
9 (e) The Board of Governors of The University of North Carolina may approve, upon
10 the recommendation of the Board of Trustees of the North Carolina School of Science and
11 Mathematics, the imposition of fees not inconsistent with actions of the General Assembly for
12 distance education services provided by the North Carolina School of Science and Mathematics
13 to nonresidents and for students participating in extracurricular enrichment programs sponsored
14 by the School."

15 **SECTION 11.7.(c)** This section applies to the 2013-2014 spring academic
16 semester and each subsequent academic semester.

17 18 **STUDENT CHARGES AT THE UNC SCHOOL OF THE ARTS**

19 **SECTION 11.8.(a)** Article 4 of Chapter 116 of the General Statutes is amended by
20 adding a new section to read:

21 **"§ 116-68.1. Fees.**

22 The Board of Governors of The University of North Carolina may set fees, not inconsistent
23 with the actions of the General Assembly, to be paid by in-State high school students enrolled
24 at the University of North Carolina School of the Arts to assist with expenses of the institution.
25 The Board of Trustees may recommend to the Board of Governors of The University of North
26 Carolina that fees be set, not inconsistent with actions of the General Assembly, to be paid by
27 in-State high school students enrolled at the University of North Carolina School of the Arts to
28 assist with expenses of the institution. The University of North Carolina School of the Arts may
29 charge and collect fees established as provided by this section from in-State high school
30 students enrolled at the University of North Carolina School of the Arts."

31 **SECTION 11.8.(b)** This section applies to the 2014-2015 academic year and each
32 subsequent academic year.

33 34 **AUTHORIZE STATE EDUCATION ASSISTANCE AUTHORITY TO CONTINUE TO** 35 **COLLECT NORTH CAROLINA TEACHING FELLOWS REPAYMENTS**

36 **SECTION 11.9.** Subsection (b) of Section 1.38 of S.L. 2011-266 is repealed.

37 38 **UNC DISPOSITION AND ACQUISITION OF REAL PROPERTY**

39 **SECTION 11.10.(a)** G.S. 116-198.34(5) reads as rewritten:

40 "(5) To acquire, hold, lease, and dispose of real and personal property in the
41 exercise of its powers and the performance of its duties hereunder and to
42 lease all or any part of any project or projects and any existing facilities upon
43 such terms and conditions as the Board determines, subject to the provisions
44 of G.S. 143-341 and Chapter 146 of the General Statutes.

45 Notwithstanding G.S. 143-341 and Chapter 146 of the General Statutes,
46 an acquisition or a disposition by easement, lease, or rental agreement of real
47 property or space in any building on the Centennial Campus, on the Horace
48 Williams Campus, on a Millennial Campus, or on a Kannapolis Research
49 Campus made for a period of ~~40-25~~ years or less shall not require the
50 approval of the Governor and the Council of State. All other acquisitions and
51 dispositions made under this subdivision for a period in excess of ~~40-25~~

1 years are subject to the provisions of G.S. 143-341 and Chapter 146 of the
2 General Statutes."

3 **SECTION 11.10.(b)** This section becomes effective July 1, 2013, and expires June
4 30, 2015.

6 **UNC CAMPUS HOUSING**

7 **SECTION 11.11.(a)** Part 3 of Article 1 of Chapter 116 of the General Statutes is
8 amended by adding a new section to read:

9 **"§ 116-40.11. Prohibit assignment of members of the opposite sex to same dormitory**
10 **room, suite, or campus apartment.**

11 Notwithstanding any other provision of law, The University of North Carolina shall
12 prohibit the assignment of members of the opposite sex to the same dormitory room, dormitory
13 suite, or campus apartment unless the students are siblings, they are parent and child, or they
14 are legally married and there is a valid marriage license on file at the campus housing office
15 that documents the marriage."

16 **SECTION 11.11.(b)** This section applies to housing assignments for the 2013 fall
17 semester and each subsequent semester.

19 **UNC/WAKE FOREST INSTITUTE FOR REGENERATIVE MEDICINE/PROFIT** 20 **SHARING WITH STATE**

21 **SECTION 11.12.(a)** Of the funds appropriated by this act for the 2013-2015 fiscal
22 biennium to the Board of Governors of The University of North Carolina the sum of seven
23 million dollars (\$7,000,000) for the 2013-2014 fiscal year and the sum of seven million dollars
24 (\$7,000,000) for the 2014-2015 fiscal year shall be allocated to Wake Forest University Health
25 Sciences (hereinafter "Wake Forest") in support of the Wake Forest Institute for Regenerative
26 Medicine (hereinafter "Institute") and its Department of Defense Armed Forces Institute for
27 Regenerative Medicine and current good manufacturing practices (cGMP) facility.

28 **SECTION 11.12.(b)** Wake Forest shall reimburse the State for State funds
29 appropriated for the Institute under subsection (a) of this section and in prior fiscal years by
30 returning to the State five percent (5%) of the royalty revenue received by the Institute from
31 commercialized projects arising under those research projects supported by the State funds,
32 either through direct research support or through substantial utilization of the cGMP facility not
33 reimbursed through other funds ("Subject Projects"). Royalty revenue reimbursed to the State
34 shall be subject to all of the following:

- 35 (1) The total amount to be reimbursed to the State shall be limited to the
36 aggregate amount of State funds allocated to Wake Forest for the Institute
37 plus simple interest at the rate of four percent (4%) annually from the time of
38 disbursement until reimbursement commences.
- 39 (2) Wake Forest shall be entitled to deduct the expenses reasonably incurred in
40 prosecuting, defending, and enforcing patent rights for the Subject Projects,
41 except to the extent the expenses are recovered from a third party, before
42 calculating the amount to be paid to the State.
- 43 (3) Calculation of the payments to the State shall be based upon the formula
44 provided in subsection (c) of this section.
- 45 (4) Payments shall be made to the State and used by the State in a manner
46 consistent with federal law.

47 **SECTION 11.12.(c)** Wake Forest on behalf of the Institute shall annually calculate
48 and remit reimbursement payments to the State based upon the following formula:

- 49 (1) Payments to the State shall be based on that share of royalty revenue
50 proportional to the State funds used for the Subject Project, which shall be
51 calculated as the ratio of State funds to total funds used to support the

1 Subject Project, based on budgets developed consistent with federal research
2 funding accounting guidelines and including the fair market value of
3 unreimbursed cGMP facility utilization.

4 (2) Wake Forest shall calculate net royalty revenue on a Subject
5 Project-by-Subject-Project basis by deducting any expenses authorized
6 under subsection (b)(2) of this section from the total royalty revenue
7 received from the Subject Project.

8 (3) Wake Forest shall multiply net royalty revenue by the support ratio
9 calculated in subsection (c)(1) of this section and then multiply the product
10 by five percent (5%) to determine the State royalty share ("State Royalty
11 Share").

12 (4) The State Royalty Share shall be remitted to the State unless the cumulative
13 State Royalty Share payments have satisfied the total aggregate amount to be
14 reimbursed as provided in subsection (b)(1) of this section.

15 **SECTION 11.12.(d)** Wake Forest on behalf of the Institute shall comply with the
16 following reporting requirements:

17 (1) By September 1 of each year, and more frequently as requested, report to the
18 Joint Legislative Commission on Governmental Operations, the Fiscal
19 Research Division, and the Board of Governors of The University of North
20 Carolina on prior State fiscal year program activities, objectives, and
21 accomplishments and prior State fiscal year itemized expenditures and fund
22 sources. The annual report shall include a report of royalty revenues
23 generated from the Subject Projects.

24 (2) Provide to the Fiscal Research Division a copy of the Institute's annual
25 audited financial statement within 30 days of issuance of the statement.

26 **SECTION 11.12.(e)** Remaining allotments after September 1 shall not be released
27 to the Institute if the reporting requirements provided in subsection (d) of this section are not
28 satisfied.

29 **SECTION 11.12.(f)** No more than one hundred twenty thousand dollars
30 (\$120,000) in State funds shall be used for the annual salary of any one employee of the
31 Institute. For purposes of this subsection, the term "State funds" means funds appropriated by
32 the State to the Institute and interest earned on those funds.

33 **SECTION 11.12.(g)** No State funds shall be used by the Institute (i) to hire or
34 facilitate the hiring of a lobbyist or any person performing the duties or activities of a lobbyist,
35 without regard to the person's title; or (ii) to facilitate any lobbying efforts.

36 37 **UNC/STRATEGIC PLAN FUNDS**

38 **SECTION 11.13.** Of the funds appropriated by this act to the Board of Governors
39 of The University of North Carolina for the 2013-2015 fiscal biennium, the Board of Governors
40 may spend a sum of up to fifteen million dollars (\$15,000,000) for the 2013-2014 fiscal year
41 and a sum of up to fifteen million dollars (\$15,000,000) for the 2014-2015 fiscal year to
42 implement provisions of The University of North Carolina Strategic Plan as set out in the report
43 "Our Time, Our Future: The University of North Carolina Compact with North Carolina."
44

45 **PART XII. DEPARTMENT OF HEALTH AND HUMAN SERVICES**

46 47 **SUBPART XII-A. CENTRAL MANAGEMENT AND SUPPORT**

48 49 **DEPARTMENT FLEXIBILITY TO ACHIEVE DEPARTMENTAL PRIORITIES AND** 50 **ENHANCE FISCAL OVERSIGHT AND ACCOUNTABILITY.**

1 **SECTION 12A.1.(a)** Notwithstanding any other provision of law and consistent
2 with the intent of G.S. 143B-10, the Secretary of the Department of Health and Human
3 Services may reorganize positions and related operational costs within the Department (i) upon
4 a demonstration by the Department of cost-effectiveness and (ii) after approval by the Office of
5 State Budget and Management (OSBM) of a written proposal submitted by the Department to
6 OSBM. Proposals submitted to OSBM under this section shall, at a minimum, identify the
7 positions involved and the strategies to be implemented in order to achieve efficiencies.

8 **SECTION 12A.1.(b)** Notwithstanding G.S. 143C-6-4 and in order to enhance
9 fiscal oversight and accountability, the Secretary of the Department of Health and Human
10 Services may realign existing resources to expand its internal audit capacity. The Secretary
11 may, with the approval of OSBM, identify up to 32 existing positions for this purpose. The
12 expanded Office of Internal Audit shall provide the Department's management personnel with
13 independent reviews and analyses of various functions and services within the Department,
14 including operational audits, performance audits, compliance audits, financial audits, and other
15 special reviews. Any realignment of resources and positions pursuant to this subsection is
16 subject to the prior approval of OSBM.

17 **SECTION 12A.1.(c)** By no later than June 30, 2014, the Department shall report
18 any actions undertaken pursuant to this section to the Joint Legislative Oversight Committee on
19 Health and Human Services and the Fiscal Research Division. The report shall, at a minimum,
20 identify the positions involved and the strategies implemented to achieve efficiencies, to
21 expand internal audit capacity, or both.

22 23 **COMPETITIVE GRANTS PROCESS FOR NONPROFIT FUNDING**

24 **SECTION 12A.2.(a)** Of the funds appropriated in this act to the Department of
25 Health and Human Services, Office of the Secretary, the sum of nine million five hundred
26 twenty-nine thousand one hundred thirty-four dollars (\$9,529,134) for the 2013-2014 fiscal
27 year and the sum of five million two hundred seventy-three thousand eight hundred thirty-five
28 dollars (\$5,273,835) appropriated in Section 12J.1 of this act for the 2013-2014 fiscal year shall
29 be used to implement a request for application (RFA) process to allow non-State entities to
30 apply for and receive State funds on a competitive basis.

31 **SECTION 12A.2.(b)** The Office of the Secretary shall administer grants awarded
32 to non-State entities pursuant to this section and shall require non-State entities to match ten
33 percent (10%) of the total amount of the grant. The Office of the Secretary shall prioritize grant
34 awards to those non-State entities that are able to leverage non-State funds in addition to the
35 grant award.

36 **SECTION 12A.2.(c)** Grants shall be awarded to non-State entities dedicated to
37 providing services statewide and supporting any of the following State health and wellness
38 initiatives:

- 39 (1) A program targeting advocacy, support, education, or residential services for
40 persons diagnosed with autism.
- 41 (2) A comprehensive program of education, advocacy, and support related to
42 brain injury and those affected by brain injury.
- 43 (3) A system of residential supports for those afflicted with substance abuse
44 addiction.
- 45 (4) A program of advocacy and supports for individuals with intellectual and
46 developmental disabilities or severe and persistent mental illness, substance
47 abusers, or the elderly.
- 48 (5) Supports and services to children and adults with developmental disabilities
49 or mental health diagnoses.
- 50 (6) A food distribution system for needy individuals.
- 51 (7) The provision and coordination of services for the homeless.

- 1 (8) The provision of services for individuals aging out of foster care.
- 2 (9) Programs promoting wellness, physical activity, and health education
- 3 programming for North Carolinians.
- 4 (10) A program focused on enhancing vision screening through the State's public
- 5 school system.
- 6 (11) Provision for the delivery of after-school services for at-risk youth.
- 7 (12) The provision of direct services for amyotrophic lateral sclerosis (ALS) and
- 8 those diagnosed with the disease.

9 **SECTION 12A.2.(c1)** For the 2013-2014 fiscal year, of the funds appropriated
10 under subsection (a) of this section pursuant to Section 12J.1 of this act, the Department shall
11 ensure that funds are allocated to the Boys and Girls Clubs in the same amount as allocated in
12 the 2012-2013 fiscal year.

13 **SECTION 12A.2.(d)** The Department shall submit a written report to the Joint
14 Legislative Oversight Committee on Health and Human Services and the Fiscal Research
15 Division on the use of these funds no later than April 1, 2014. The report shall include at least
16 all of the following:

- 17 (1) The identity and a brief description of each grantee and each program or
- 18 initiative offered by the grantee.
- 19 (2) The amount of funding awarded to each grantee.
- 20 (3) The number of persons served by each grantee, broken down by program or
- 21 initiative.

22 **SECTION 12A.2.(e)** Funds received by the Department of Health and Human
23 Services pursuant to this section shall supplement and not supplant existing funds for health
24 and wellness programs and initiatives.

25 **HEALTH INFORMATION TECHNOLOGY**

26 **SECTION 12A.3.(a)** The Department of Health and Human Services, in
27 cooperation with the State Chief Information Officer, shall coordinate health information
28 technology (HIT) policies and programs within the State of North Carolina. The Department's
29 goal in coordinating State HIT policy and programs shall be to avoid duplication of efforts and
30 to ensure that each State agency, public entity, and private entity that undertakes health
31 information technology activities does so within the area of its greatest expertise and technical
32 capability and in a manner that supports coordinated State and national goals, which shall
33 include at least all of the following:

- 34 (1) Ensuring that patient health information is secure and protected, in
- 35 accordance with applicable law.
- 36 (2) Improving health care quality, reducing medical errors, reducing health
- 37 disparities, and advancing the delivery of patient-centered medical care.
- 38 (3) Providing appropriate information to guide medical decisions at the time and
- 39 place of care.
- 40 (4) Ensuring meaningful public input into HIT infrastructure development.
- 41 (5) Improving the coordination of information among hospitals, laboratories,
- 42 physicians' offices, and other entities through an effective infrastructure for
- 43 the secure and authorized exchange of health care information.
- 44 (6) Improving public health services and facilitating early identification and
- 45 rapid response to public health threats and emergencies, including
- 46 bioterrorist events and infectious disease outbreaks.
- 47 (7) Facilitating health and clinical research.
- 48 (8) Promoting early detection, prevention, and management of chronic diseases.

49 **SECTION 12A.3.(b)** The Department of Health and Human Services shall
50 establish and direct an HIT management structure that is efficient and transparent and that is
51

1 compatible with the Office of the National Health Coordinator for Information Technology
2 (National Coordinator) governance mechanism. The HIT management structure shall be
3 responsible for all of the following:

- 4 (1) Developing a State plan for implementing and ensuring compliance with
5 national HIT standards and for the most efficient, effective, and widespread
6 adoption of HIT.
- 7 (2) Ensuring that (i) specific populations are effectively integrated into the State
8 plan, including aging populations, populations requiring mental health
9 services, and populations utilizing the public health system, and (ii) unserved
10 and underserved populations receive priority consideration for HIT support.
- 11 (3) Identifying all HIT stakeholders and soliciting feedback and participation
12 from each stakeholder in the development of the State plan.
- 13 (4) Ensuring that existing HIT capabilities are considered and incorporated into
14 the State plan.
- 15 (5) Identifying and eliminating conflicting HIT efforts where necessary.
- 16 (6) Identifying available resources for the implementation, operation, and
17 maintenance of health information technology, including identifying
18 resources and available opportunities for North Carolina institutions of
19 higher education.
- 20 (7) Ensuring that potential State plan participants are aware of HIT policies and
21 programs and the opportunity for improved health information technology.
- 22 (8) Monitoring HIT efforts and initiatives in other states and replicating
23 successful efforts and initiatives in North Carolina.
- 24 (9) Monitoring the development of the National Coordinator's strategic plan and
25 ensuring that all stakeholders are aware of and in compliance with its
26 requirements.
- 27 (10) Monitoring the progress and recommendations of the HIT Policy and
28 Standards Committee and ensuring that all stakeholders remain informed of
29 the Committee's recommendations.
- 30 (11) Monitoring all studies and reports provided to the United States Congress
31 and reporting to the Joint Legislative Oversight Committee on Information
32 Technology and the Fiscal Research Division on the impact of report
33 recommendations on State efforts to implement coordinated HIT.

34 **SECTION 12A.3.(c)** Section 10.24(c) of S.L. 2011-145 reads as rewritten:

35 ~~"SECTION 10.24.(c) Beginning October 1, 2011, the Department of Health and Human~~
36 ~~Services shall provide quarterly written reports. By no later than January 15, 2015, the~~
37 ~~Department of Health and Human Services shall provide a written report on the status of HIT~~
38 ~~efforts to the Joint Legislative Oversight Committee on Health and Human Services and the~~
39 ~~Fiscal Research Division. The reports due each January 1 and July 1 shall consist of updates to~~
40 ~~substantial initiatives or challenges that have occurred since the most recent comprehensive~~
41 ~~report. The reports due each October 1 and April 1 report shall be comprehensive and shall~~
42 ~~include all of the following:~~

- 43 (1) Current status of federal HIT initiatives.
- 44 (2) Current status of State HIT efforts and initiatives among both public and
45 private entities.
- 46 (3) A breakdown of current public and private funding sources and dollar
47 amounts for State HIT initiatives.
- 48 (4) Department efforts to coordinate HIT initiatives within the State and any
49 obstacles or impediments to coordination.
- 50 (5) HIT research efforts being conducted within the State and sources of funding
51 for research efforts.

- 1 (6) Opportunities for stakeholders to participate in HIT funding and other efforts
2 and initiatives during the next quarter.
- 3 (7) Issues associated with the implementation of HIT in North Carolina and
4 recommended solutions to these issues."
5

6 **FUNDS FOR REPLACEMENT MEDICAID MANAGEMENT INFORMATION**
7 **SYSTEM/IMPLEMENTATION OF REPLACEMENT MMIS**

8 **SECTION 12A.4.(a)** The Secretary of the Department of Health and Human
9 Services may utilize prior year earned revenue received for the replacement MMIS in the
10 amount of nine million six hundred fifty-eight thousand one hundred fifty-two dollars
11 (\$9,658,152) for the 2013-2014 fiscal year and in the amount of one million six hundred
12 sixty-six thousand six hundred twenty-five dollars (\$1,666,625) for the 2014-2015 fiscal year.
13 In the event the Department does not receive prior year earned revenues in the amounts
14 authorized by this section, or funds are insufficient to advance the project, the Department may,
15 with prior approval from the Office of State Budget and Management (OSBM), utilize
16 overrealized receipts and funds appropriated to the Department to achieve the level of funding
17 specified in this section for the replacement MMIS.

18 **SECTION 12A.4.(b)** The Department shall make full development of the
19 replacement MMIS a top priority. During development and implementation of the replacement
20 MMIS, the Department shall develop plans to ensure the timely and effective implementation
21 of enhancements to the system to provide the following capabilities:

- 22 (1) Receiving and tracking premiums or other payments required by law.
23 (2) Compatibility with the Health Information System.

24 **SECTION 12A.4.(c)** The Department shall make every effort to expedite the
25 implementation of the enhancements. The replacement MMIS shall have the capability to fully
26 implement the administration of NC Health Choice, Ticket to Work, CAP Children's Program,
27 all relevant Medicaid waivers, and the Medicare 646 waiver as it applies to Medicaid eligibles.

28 **SECTION 12A.4.(d)** The Office of the State Chief Information Officer (SCIO) and
29 the Office of Information Technology Services (ITS) shall work in cooperation with the
30 Department to ensure the timely and effective implementation of the replacement MMIS and
31 any enhancements. The SCIO shall ensure that the replacement MMIS meets all State
32 requirements for project management and shall immediately report any failure to meet these
33 requirements to the Joint Legislative Oversight Committee on Health and Human Services, the
34 Joint Legislative Oversight Committee on Information Technology, the Fiscal Research
35 Division, and the Office of State Budget and Management. The SCIO shall also immediately
36 report if any replacement MMIS project, or portion of a project, is listed as red in the project
37 portfolio management tool.

38 **SECTION 12A.4.(e)** Notwithstanding G.S. 114-2.3, the Department shall consult
39 with the Office of the SCIO concerning the retention of private counsel for the replacement
40 MMIS, and as directed by the Office of the SCIO, retain private counsel with expertise in
41 pertinent information technology and computer law to negotiate and review contract
42 amendments associated with the replacement MMIS. The private counsel engaged by the
43 Department shall review the replacement MMIS contract amendments between the Department
44 and the vendors to ensure that the requirements of subsection (c) of this section are met in their
45 entirety and that the terms of the contract amendments are in the State's best interest.

46 **SECTION 12A.4.(f)** The Department shall immediately report any changes to the
47 replacement MMIS implementation schedules to the Joint Legislative Oversight Committee on
48 Health and Human Services, the Joint Legislative Oversight Committee on Information
49 Technology, the Fiscal Research Division, and the Office of State Budget and Management,
50 with a full explanation of the reason for the change and any associated costs.

1 **SECTION 12A.4.(g)** The Department shall provide the following reports on the
2 replacement MMIS by the dates specified in this subsection to the Joint Legislative Oversight
3 Committee on Health and Human Services, the Joint Legislative Oversight Committee on
4 Information Technology, the Fiscal Research Division, and the Office of State Budget and
5 Management:

- 6 (1) By no later than August 1, 2013, a progress report on full implementation of
7 the replacement MMIS, which shall include at least all of the following:
8 a. An updated estimate of the costs associated with operating and
9 maintaining the system during the 2013-2014 fiscal year and during
10 the 2014-2015 fiscal year, with an explanation for any changes from
11 previous submissions.
12 b. Any issues encountered following the "go-live" date of July 1, 2013,
13 how each issue was resolved, any cost associated with the resolution
14 of each issue, and the source of funding for the associated cost.
15 c. Any system requirements for manual workarounds, any cost
16 associated with these system requirements, the source of funding
17 used to pay for the associated cost, the time line for implementing an
18 automated solution for each manual workaround, the cost associated
19 with transitioning to each automated solution, and the source of
20 funding for each identified cost.
21 d. A comparison of timeliness and accuracy of payments for legacy
22 system and replacement system transactions, using the same criteria
23 for both.
24 e. Required capabilities that are not available in the replacement MMIS
25 on the "go-live" date of July 1, 2013, with a date for the
26 implementation of each, as well as any cost associated with
27 implementation.
- 28 (2) By no later than September 1, 2013, a plan for the elimination of the Office
29 of Medicaid Management Information System Services (OMMISS) and the
30 transfer of its remaining operations to other Divisions within the Department
31 of Health and Human Services. This plan shall include at least all of the
32 following:
33 a. The specific operations to be transferred to other Divisions within the
34 Department, the specific Division to which each operation will be
35 transferred, the State personnel that will be impacted by each
36 transfer, costs associated with each transfer, and sources of funding
37 to enable the identified Divisions to assume these transferred
38 operations.
39 b. Any State personnel costs that will result from the dissolution of
40 OMMISS, including the costs of any severance payments and any
41 compensatory time earned during the course of the project, broken
42 down by employee; and any identified sources of funding to pay for
43 these personnel costs.
44 c. A plan for transitioning out of the space currently leased by the State
45 for OMMISS, costs associated with this transition, and any savings
46 that will result from the transition.
- 47 (3) By no later than October 1, 2013, a preliminary report on the Department's
48 plan for achieving system certification, which shall include at least all of the
49 following:
50 a. A description of the process.
51 b. A detailed time line.

- c. Any issues that could impact the timing of system certification and plans to mitigate identified issues.
- d. Any costs associated with system certification.
- e. Any identified funding sources to pay for costs associated with system certification.

SECTION 12A.4.(h) The Department shall complete the Reporting and Analytics Project solution simultaneously with the implementation of the replacement MMIS.

SECTION 12A.4.(i) Notwithstanding any other provision of law and to the extent permitted by federal law, the Department shall not approve any overtime or compensatory time related to the replacement MMIS after the replacement MMIS "go-live" date of July 1, 2013, without the prior written approval of the Office of State Personnel for each specific instance of overtime or compensatory time.

SECTION 12A.4.(j) Beginning when the replacement MMIS is fully implemented, the Department shall require all Medicaid claim adjudication to be performed by the replacement MMIS, including all Medicaid claim adjudication performed by entities under contract with the Department. The Department may charge entities under contract with the Department a fee not to exceed the amount necessary to cover the full operating cost of Medicaid claim adjudication performed by the replacement MMIS.

FRAUD DETECTION THROUGH NORTH CAROLINA ACCOUNTABILITY AND COMPLIANCE TECHNOLOGY SYSTEM

SECTION 12A.5. The Department of Health and Human Services shall integrate with and leverage the State's enterprise-level fraud detection system operated by the North Carolina Financial Accountability and Compliance Technology System (NC FACTS) in an effort to detect and prevent potential fraud, waste, and improper payments. Integration shall involve the following information technology systems:

- (1) Medicaid Management Information System (MMIS).
- (2) North Carolina Child Treatment Program (NC CTP) State-funded secure database.
- (3) North Carolina Families Accessing Services through Technology (NC FAST).

FUNDING FOR NORTH CAROLINA FAMILIES ACCESSING SERVICES THROUGH TECHNOLOGY (NC FAST); REPORT ON ELIGIBILITY DETERMINATIONS FOR THE EXCHANGE

SECTION 12A.6.(a) Funds appropriated in this act in the amount of eight hundred sixty-four thousand six hundred fifty-five dollars (\$864,655) for State fiscal year 2014-2015 along with the cash balance in Budget Code 24410 Fund 2411 for the North Carolina Families Accessing Services through Technology (NC FAST) project shall be used to match federal funds in fiscal years 2013-2014 and 2014-2015 to expedite the development and implementation of the Eligibility Information System (EIS), Child Care, Low Income Energy Assistance, and Crisis Intervention Programs, and Child Service components of the NC FAST project.

SECTION 12A.6.(b) The Department of Health and Human Services shall report on NC FAST's performance in providing eligibility determinations for Medicaid applicants on the federally facilitated Health Benefit Exchange, a required function of NC FAST directed by Section 2 of S.L. 2013-5. The report shall contain a description of the following:

- (1) Funding sources, funding amounts, and expenditures for the project beginning in fiscal year 2012-2013 through the time of the report.
- (2) Any challenges with the eligibility determination project and how NC FAST solved those challenges.

- 1 (3) The number of eligibility determinations performed for applicants on the
2 federally facilitated Health Benefit Exchange, including an analysis of on
3 what days and for how many persons eligibility determinations were
4 performed as well as how many applicants were determined to be eligible.

5 The Department shall submit a report to the Joint Legislative Commission on Governmental
6 Operations, the Joint Legislative Oversight Committee on Health and Human Services, and the
7 Joint Legislative Oversight Committee on Information Technology three months after open
8 enrollment begins for the federally facilitated Health Benefit Exchange.
9

10 LIABILITY INSURANCE

11 SECTION 12A.7. Article 31 of Chapter 58 of the General Statutes is amended by
12 adding a new section to read:

13 **"§ 58-31-26. Medical liability insurance for certain physicians and dentists.**

14 (a) The Secretary of the Department of Health and Human Services and the Secretary
15 of the Department of Public Safety may provide medical liability insurance not to exceed one
16 million dollars (\$1,000,000) per incident on behalf of employees of these Departments who are
17 licensed to practice medicine or dentistry; on behalf of all licensed physicians who are faculty
18 members of The University of North Carolina who perform work on a contractual basis for the
19 Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for
20 incidents that occur in Division programs; and on behalf of physicians in all residency training
21 programs from The University of North Carolina who are in training at institutions operated by
22 the Department of Health and Human Services. This coverage may include commercial
23 insurance or self-insurance and shall cover these individuals for their acts or omissions only
24 while they are engaged in providing medical and dental services pursuant to their State
25 employment or training.

26 (b) The coverage provided pursuant to this section shall not cover any individual for
27 any act or omission that the individual knows or reasonably should know constitutes a violation
28 of the applicable criminal laws of any state or the United States, or that arises out of any sexual,
29 fraudulent, criminal, or malicious act or out of any act amounting to willful or wanton
30 negligence.

31 (c) The coverage provided pursuant to this section shall not require any additional
32 appropriations and, except as provided in subsection (a) of this section, shall not apply to any
33 individual providing contractual service to the Department of Health and Human Services or
34 the Department of Public Safety."
35

36 ELIMINATE UNNECESSARY AND REDUNDANT REPORTS

37 SECTION 12A.8.(a) Eliminate Outcomes Evaluation Study on the Effectiveness
38 of Substance Abuse Services Provided to Person Convicted of DWI. – G.S. 122C-142.1(j) is
39 repealed.

40 SECTION 12A.8.(b) Eliminate Evaluation of Efficiency and Effectiveness of
41 Family Resource Center Grant Program. – G.S. 143B-152.15(b) is repealed.

42 SECTION 12A.8.(c) Eliminate Annual Report on Progress of MH/DD/SAS State
43 Plan. – G.S. 122C-102(c) is repealed.

44 SECTION 12A.8.(d) Eliminate Annual Report on North Carolina State Plan on
45 Healthcare Associated Infections. – G.S. 130A-150(e) is repealed.

46 SECTION 12A.8.(e) Eliminate Annual Report on The Health Insurance Program
47 for Children. – G.S. 108A-70.27(b) is repealed.

48 SECTION 12A.8.(f) Eliminate Annual Report by State Child Fatality Review
49 Team. – G.S. 143B-150.20(h) is repealed.

50 SECTION 12A.8.(g) Forgiveness of Late Reports. – Notwithstanding any other
51 provision of law, unless otherwise required in this act, the Department of Health and Human

1 Services is not required to submit any report due on or before January 6, 2013, to the General
2 Assembly; to any committee, commission, subcommittee, task force, or division of the General
3 Assembly; or to any other department, unit, or subdivision of State government, if the
4 Department has not already submitted the report prior to July 1, 2013. This subsection shall not
5 be construed to eliminate any reports due from the Department after January 6, 2013, except as
6 otherwise provided by law.

7 8 **CANCER COORDINATION REPORTING**

9 **SECTION 12A.9.** G.S. 130A-33.51(b) reads as rewritten:

10 "(b) The Committee shall submit a written report not later than May 1, 1994, and not
11 later than October 1 of each subsequent year, ~~to the Governor and to the Joint Legislative~~
12 ~~Commission on Governmental Operations.~~ the Secretary. The report shall address the progress
13 in implementation of a cancer control program. The report shall include an accounting of funds
14 expended and anticipated funding needs for full implementation of recommended programs."

15 16 **MEETINGS OF CANCER COORDINATION COMMITTEE**

17 **SECTION 12A.10.** G.S. 130A-33.50(b) reads as rewritten:

18 "(b) The Committee shall have up to 34 members, including the Secretary of the
19 Department or the Secretary's designee. The members of the Committee shall elect a chair and
20 vice-chair from among the Committee membership. The Committee shall meet not more than
21 twice a year at the call of the chair. Six of the members shall be legislators, three of whom shall
22 be appointed by the Speaker of the House of Representatives, and three of whom shall be
23 appointed by the President Pro Tempore of the Senate. Four of the members shall be cancer
24 survivors, two of whom shall be appointed by the Speaker of the House of Representatives, and
25 two of whom shall be appointed by the President Pro Tempore of the Senate. The remainder of
26 the members shall be appointed by the Governor as follows:

- 27 (1) One member from the Department of Environment and Natural Resources;
- 28 (2) Three members, one from each of the following: the Department, the
29 Department of Public Instruction, and the North Carolina Community
30 College System;
- 31 (3) Four members representing the cancer control programs at North Carolina
32 medical schools, one from each of the following: the University of North
33 Carolina at Chapel Hill School of Medicine, the Bowman Gray School of
34 Medicine, the Duke University School of Medicine, and the East Carolina
35 University School of Medicine;
- 36 (4) One member who is an oncology nurse representing the North Carolina
37 Nurses Association;
- 38 (5) One member representing the Cancer Committee of the North Carolina
39 Medical Society;
- 40 (6) One member representing the Old North State Medical Society;
- 41 (7) One member representing the American Cancer Society, North Carolina
42 Division, Inc.;
- 43 (8) One member representing the North Carolina Hospital Association;
- 44 (9) One member representing the North Carolina Association of Local Health
45 Directors;
- 46 (10) One member who is a primary care physician licensed to practice medicine
47 in North Carolina;
- 48 (11) One member representing the American College of Surgeons;
- 49 (12) One member representing the North Carolina Oncology Society;
- 50 (13) One member representing the Association of North Carolina Cancer
51 Registrars;

1 (14) One member representing the Medical Directors of the North Carolina
2 Association of Health Plans; and

3 (15) Up to four additional members at large.

4 Except for the Secretary, the members shall be appointed for staggered four-year terms and
5 until their successors are appointed and qualify. The Governor may remove any member of the
6 Committee from office in accordance with the provisions of G.S. 143B-13. Members may
7 succeed themselves for one term and may be appointed again after being off the Committee for
8 one term."
9

10 LAPSED SALARY FUNDS REPORT

11 SECTION 12A.11. Section 10.20 of S.L. 2012-142 is repealed.
12

13 PRISON REPORT

14 SECTION 12A.12. G.S. 148-19(d) reads as rewritten:

15 "(d) The Commission for Mental Health, Developmental Disabilities, and Substance
16 Abuse Services shall adopt standards for the delivery of mental health and mental retardation
17 services to inmates in the custody of the Division of Adult Correction of the Department of
18 Public Safety. The Commission for Mental Health, Developmental Disabilities, and Substance
19 Abuse Services shall give the Secretary of Public Safety an opportunity to review and comment
20 on proposed standards prior to promulgation of such standards; however, final authority to
21 determine such standards remains with the Commission. The Secretary of the Department of
22 Health and Human Services shall designate an agency or agencies within the Department of
23 Health and Human Services to monitor the implementation by the Division of Adult Correction
24 of the Department of Public Safety of these standards and of substance abuse standards adopted
25 by the Division of Adult Correction of the Department of Public Safety. ~~The Secretary of
26 Health and Human Services shall send a written report on the progress which the Division of
27 Adult Correction of the Department of Public Safety has made on the implementation of such
28 standards to the Governor, the Lieutenant Governor, and the Speaker of the House. Such
29 reports shall be made on an annual basis beginning January 1, 1978."~~
30

31 MODIFICATIONS TO JUSTUS-WARREN TASK FORCE

32 SECTION 12A.13. G.S. 143B-216.60 reads as rewritten:

33 "§ 143B-216.60. The Justus-Warren Heart Disease and Stroke Prevention Task Force.

34 ...

35 (e) The Task Force shall meet ~~at least quarterly or more frequently~~ not more than twice
36 annually at the call of the Chair.

37 ~~(f) The Task Force Chair may establish committees for the purpose of making special
38 studies pursuant to its duties, and may appoint non-Task Force members to serve on each
39 committee as resource persons. Resource persons shall be voting members of the committees
40 and shall receive subsistence and travel expenses in accordance with G.S. 138-5 and
41 G.S. 138-6. Committees may meet with the frequency needed to accomplish the purposes of
42 this section.~~

43"
44

45 MODIFICATIONS TO COMMISSION FOR THE BLIND

46 SECTION 12A.14.(a) Eliminate Professional Advisory Committee. – Part 8 of
47 Article 3 of Chapter 143B of the General Statutes is repealed.

48 SECTION 12A.14.(b) G.S. 143B-158 reads as rewritten:

49 "§ 143B-158. Commission for the Blind.

50 (a) The Commission for the Blind of the Department of Health and Human Services
51 shall consist of ~~13~~19 members as follows:

- 1 (1) One representative of the Statewide Independent Living Council.
- 2 (2) One representative of a parent training and information center established
- 3 pursuant to section 631(c) of the Individuals with Disabilities Education Act,
- 4 20 U.S.C. § 1431(c).
- 5 (3) One representative of the State's Client Assistance Program.
- 6 (4) One vocational rehabilitation counselor who has knowledge of and
- 7 experience in vocational rehabilitation services for the blind. A vocational
- 8 rehabilitation counselor appointed pursuant to this subdivision shall serve as
- 9 a nonvoting member of the Commission if the counselor is an employee of
- 10 the Department of Health and Human Services.
- 11 (5) One representative of community rehabilitation program services providers.
- 12 (6) One current or former applicant for, or recipient of, vocational rehabilitation
- 13 services.
- 14 (7) One representative of a disability advocacy group representing individuals
- 15 who are blind.
- 16 (8) One parent, family member, guardian, advocate, or authorized representative
- 17 of an individual who is blind, has multiple disabilities, and either has
- 18 difficulty representing himself or herself or who is unable, due to
- 19 disabilities, to represent himself or herself.
- 20 (9) One representative of business, industry, and labor.
- 21 (10) One representative of the directors of projects carried out under section 121
- 22 of the Rehabilitation Act of 1973, 29 U.S.C. § 741, as amended, if there are
- 23 any of these projects in the State.
- 24 (11) One representative of the Department of Public Instruction.
- 25 (12) One representative of the Commission on Workforce Development.
- 26 (12a) Two licensed physicians nominated by the North Carolina Medical Society
- 27 whose practice is limited to ophthalmology.
- 28 (12b) Two optometrists nominated by the North Carolina State Optometric
- 29 Society.
- 30 (12c) Two opticians nominated by the North Carolina Opticians Association.
- 31 (13) The Director of the Division of Services for the Blind shall serve as an ex
- 32 officio, nonvoting member.
- 33 (b) The members of the Commission for the Blind shall be appointed by the Governor.
- 34 The Governor shall appoint members after soliciting recommendations from representatives of
- 35 organizations representing a broad range of individuals who have disabilities and organizations
- 36 interested in those individuals. In making appointments to the Commission, the Governor shall
- 37 consider, to the greatest extent practicable, the extent to which minority populations are
- 38 represented on the Commission.
- 39 (c) ~~A-Except for individuals appointed to the Commission under subdivisions (12a),~~
- 40 ~~(12b), and (12c) of subsection (a) of this section, a majority of Commission members shall be~~
- 41 ~~persons who are blind, as defined in G.S. 111-11. A majority of Commission members shall be~~
- 42 ~~persons who are G.S. 111-11 and who are not employed by the Division of Services for the~~
- 43 ~~Blind.~~
- 44 (d) The Commission for the Blind shall select a Chairperson from among its members.
- 45 (e) The term of office of members of the Commission is three years. The term of
- 46 members appointed under subdivisions (1), (2), (3), ~~and (4)-(4), and (12a)~~ of subsection (a) of
- 47 this section shall expire on June 30 of years evenly divisible by three. The term of members
- 48 appointed under subdivisions (5), (6), (7), ~~and (8)-(8), and (12b)~~ of subsection (a) of this section
- 49 shall expire on June 30 of years that follow by one year those years that are evenly divisible by
- 50 three. The term of members appointed under subdivisions (9), (10), (11), ~~and (12)-(12), and~~

1 (12c) of subsection (a) of this section shall expire on June 30 of years that precede by one year
2 those years that are evenly divisible by three.

3 (f) No individual may be appointed to more than two consecutive three-year terms.
4 Upon the expiration of a term, a member shall continue to serve until a successor is appointed,
5 as provided by G.S. 128-7. An appointment to fill a vacancy shall be for the unexpired balance
6 of the term.

7 (g) A member of the Commission shall not vote on any issue before the Commission
8 that would have a significant and predictable effect on the member's financial interest. The
9 Governor shall have the power to remove any member of the Commission from office for
10 misfeasance, malfeasance, or nonfeasance in accordance with the provisions of G.S. 143B-13
11 of the Executive Organization Act of 1973.

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

14 (i) A majority of the Commission shall constitute a quorum for the transaction of
15 business.

16 (j) All clerical and other services required by the Commission shall be supplied by the
17 Secretary of Health and Human Services."
18

19 **SUBPART XII-B. DIVISION OF CHILD DEVELOPMENT AND EARLY EDUCATION**

20 **NC PRE-K**

21 **SECTION 12B.1.(a)** Eligibility. – The Department of Health and Human Services,
22 Division of Child Development and Early Education, shall continue implementing the
23 prekindergarten program (NC Pre-K). The NC Pre-K program shall serve children who are four
24 years of age on or before August 31 of the program year. In determining eligibility, the
25 Division shall establish income eligibility requirements for the program not to exceed
26 seventy-five percent (75%) of the State median income. Up to twenty percent (20%) of children
27 enrolled may have family incomes in excess of seventy-five percent (75%) of median income if
28 those children have other designated risk factors. Furthermore, any age-eligible child who is a
29 child of either of the following shall be eligible for the program: (i) an active duty member of
30 the Armed Forces of the United States, including the North Carolina National Guard, State
31 military forces, or a reserve component of the Armed Forces who was ordered to active duty by
32 the proper authority within the last 18 months or is expected to be ordered within the next 18
33 months or (ii) a member of the Armed Forces of the United States, including the North
34 Carolina National Guard, State military forces, or a reserve component of the Armed Forces
35 who was injured or killed while serving on active duty. Eligibility determinations for
36 prekindergarten participants may continue through local education agencies and local North
37 Carolina Partnership for Children, Inc., partnerships.
38

39 Other than developmental disabilities or other chronic health issues, the Division
40 shall not consider the health of a child as a factor in determining eligibility for participation in
41 the NC Pre-K program.

42 **SECTION 12B.1.(b)** Multiyear Contracts. – The Division of Child Development
43 and Early Education shall require the NC Pre-K contractor to issue multiyear contracts for
44 licensed private child care centers providing NC Pre-K classrooms.

45 **SECTION 12B.1.(c)** Programmatic Standards. – All entities operating
46 prekindergarten classrooms shall adhere to all of the policies prescribed by the Division of
47 Child Development and Early Education regarding programmatic standards and classroom
48 requirements.

49 **SECTION 12B.1.(d)** NC Pre-K Committees. – The Division of Child
50 Development and Early Education shall establish a standard decision-making process to be

1 used by local NC Pre-K committees in awarding prekindergarten classroom slots and student
2 selection.

3 **SECTION 12B.1.(e) SEEK.** – All prekindergarten classrooms shall be required to
4 participate in the Subsidized Early Education for Kids (SEEK) accounting system to streamline
5 the payment function for these classrooms with a goal of eliminating duplicative systems and
6 streamlining the accounting and payment processes among the subsidy reimbursement systems.
7 Prekindergarten funds transferred may be used to add these programs to SEEK.

8 **SECTION 12B.1.(f) Pilot Program.** – The Division of Child Development and
9 Early Education shall create a pilot program that provides funding for NC Pre-K classrooms on
10 a per classroom basis. The pilot program shall include three different NC Pre-K contractual
11 regions that are geographically diverse. The local NC Pre-K administrator shall contract with
12 the provider for operation of a classroom established pursuant to the pilot program. The
13 Division shall provide a report on the status of the pilot program to the Joint Legislative
14 Oversight Committee on Health and Human Services and the Fiscal Research Division no later
15 than January 31, 2014. The report shall include the following:

- 16 (1) The number of students served.
- 17 (2) The amount of funds paid for each classroom.
- 18 (3) The amount of funds paid per student.
- 19 (4) The attendance information on students in the pilot program as compared to
20 those students in a classroom having a traditional funding structure.
- 21 (5) Information on the number of students and students' families using the
22 Subsidized Early Education for Kids (SEEK) system.
- 23 (6) A cost comparison of the classroom pilots to the average cost per student
24 through the per student funding methodology.

25 **SECTION 12B.1.(g) Reporting.** – The Division of Child Development and Early
26 Education shall submit an annual report no later than March 15 of each year to the Joint
27 Legislative Commission on Governmental Operations, the Joint Legislative Oversight
28 Committee on Health and Human Services, the Office of State Budget and Management, and
29 the Fiscal Research Division. The report shall include the following:

- 30 (1) The number of children participating in the NC Pre-K program by county.
- 31 (2) The number of children participating in the NC Pre-K program who have
32 never been served in other early education programs such as child care,
33 public or private preschool, Head Start, Early Head Start, or early
34 intervention programs.
- 35 (3) The expected NC Pre-K expenditures for the programs and the source of the
36 local contributions.
- 37 (4) The results of an annual evaluation of the NC Pre-K program.

38 39 **COUNTY DEPARTMENTS OF SOCIAL SERVICES TO ADMINISTER CHILD CARE** 40 **SUBSIDY**

41 **SECTION 12B.2.(a)** It is the intent of the General Assembly to streamline services
42 at the local level. To that end, only a county department of social services shall administer child
43 care subsidy funds. Any child care subsidy funds previously administered by a local North
44 Carolina Partnership for Children, Inc., partnership shall be administered by the county
45 department of social services. Expenditures for child care subsidy, including North Carolina
46 Partnership for Children, Inc., child care subsidy funds, for fiscal years 2013-2014 and
47 2014-2015 shall not be less than the expenditures for child care subsidy for the 2012-2013
48 fiscal year. Any administrative savings the Department of Health and Human Services,
49 Division of Child Development and Early Education, can identify based on the administration
50 of child care subsidy by county departments of social services shall be allocated to child care
51 subsidy.

1 **SECTION 12B.2.(b)** The Department of Health and Human Services, Division of
 2 Child Development and Early Education, shall report on the implementation of the
 3 requirements of subsection (a) of this section to the Joint Legislative Committee on Health and
 4 Human Services and the Fiscal Research Division no later than April 1, 2014.

5
 6 **CHILD CARE SUBSIDY RATES**

7 **SECTION 12B.3.(a)** The maximum gross annual income for initial eligibility,
 8 adjusted biennially, for subsidized child care services shall be seventy-five percent (75%) of the
 9 State median income, adjusted for family size.

10 **SECTION 12B.3.(b)** Fees for families who are required to share in the cost of care
 11 shall be established based on a percent of gross family income and adjusted for family size.
 12 Fees shall be determined as follows:

FAMILY SIZE	PERCENT OF GROSS FAMILY INCOME
1-3	10%
4-5	9%
6 or more	8%

18 **SECTION 12B.3.(c)** Payments for the purchase of child care services for
 19 low-income children shall be in accordance with the following requirements:

- 20 (1) Religious-sponsored child care facilities operating pursuant to G.S. 110-106
 21 and licensed child care centers and homes that meet the minimum licensing
 22 standards that are participating in the subsidized child care program shall be
 23 paid the one-star county market rate or the rate they charge privately paying
 24 parents, whichever is lower, unless prohibited by subsection (f) of this
 25 section.
- 26 (2) Licensed child care centers and homes with two or more stars shall receive
 27 the market rate for that rated license level for that age group or the rate they
 28 charge privately paying parents, whichever is lower, unless prohibited by
 29 subsection (f) of this section.
- 30 (3) Nonlicensed homes shall receive fifty percent (50%) of the county market
 31 rate or the rate they charge privately paying parents, whichever is lower.
- 32 (4) No payments shall be made for transportation services or registration fees
 33 charged by child care facilities.
- 34 (5) Payments for subsidized child care services for postsecondary education
 35 shall be limited to a maximum of 20 months of enrollment.
- 36 (6) The Department of Health and Human Services shall implement necessary
 37 rule changes to restructure services, including, but not limited to, targeting
 38 benefits to employment.

39 **SECTION 12B.3.(d)** Provisions of payment rates for child care providers in
 40 counties that do not have at least 50 children in each age group for center-based and
 41 home-based care are as follows:

- 42 (1) Except as applicable in subdivision (2) of this subsection, payment rates
 43 shall be set at the statewide or regional market rate for licensed child care
 44 centers and homes.
- 45 (2) If it can be demonstrated that the application of the statewide or regional
 46 market rate to a county with fewer than 50 children in each age group is
 47 lower than the county market rate and would inhibit the ability of the county
 48 to purchase child care for low-income children, then the county market rate
 49 may be applied.

50 **SECTION 12B.3.(e)** A market rate shall be calculated for child care centers and
 51 homes at each rated license level for each county and for each age group or age category of

1 enrollees and shall be representative of fees charged to parents for each age group of enrollees
2 within the county. The Division of Child Development and Early Education shall also calculate
3 a statewide rate and regional market rate for each rated license level for each age category.

4 **SECTION 12B.3.(f)** The Division of Child Development and Early Education
5 shall continue implementing policies that improve the quality of child care for subsidized
6 children, including a policy in which child care subsidies are paid, to the extent possible, for
7 child care in the higher quality centers and homes only. The Division shall define higher
8 quality, and subsidy funds shall not be paid for one- or two-star rated facilities. For those
9 counties with an inadequate number of four- and five-star rated facilities, the Division shall
10 continue a transition period that allows the facilities to continue to receive subsidy funds while
11 the facilities work on the increased star ratings. The Division may allow exemptions in counties
12 where there is an inadequate number of four- and five-star rated facilities for nonstar rated
13 programs, such as religious programs.

14 **SECTION 12B.3.(g)** Facilities licensed pursuant to Article 7 of Chapter 110 of the
15 General Statutes and facilities operated pursuant to G.S. 110-106 may participate in the
16 program that provides for the purchase of care in child care facilities for minor children of
17 needy families. Except as authorized by subsection (f) of this section, no separate licensing
18 requirements shall be used to select facilities to participate. In addition, child care facilities
19 shall be required to meet any additional applicable requirements of federal law or regulations.
20 Child care arrangements exempt from State regulation pursuant to Article 7 of Chapter 110 of
21 the General Statutes shall meet the requirements established by other State law and by the
22 Social Services Commission.

23 County departments of social services or other local contracting agencies shall not use a
24 provider's failure to comply with requirements in addition to those specified in this subsection
25 as a condition for reducing the provider's subsidized child care rate.

26 **SECTION 12B.3.(h)** Payment for subsidized child care services provided with
27 Work First Block Grant funds shall comply with all regulations and policies issued by the
28 Division of Child Development for the subsidized child care program.

29 **SECTION 12B.3.(i)** Noncitizen families who reside in this State legally shall be
30 eligible for child care subsidies if all other conditions of eligibility are met. If all other
31 conditions of eligibility are met, noncitizen families who reside in this State illegally shall be
32 eligible for child care subsidies only if at least one of the following conditions is met:

- 33 (1) The child for whom a child care subsidy is sought is receiving child
34 protective services or foster care services.
- 35 (2) The child for whom a child care subsidy is sought is developmentally
36 delayed or at risk of being developmentally delayed.
- 37 (3) The child for whom a child care subsidy is sought is a citizen of the United
38 States.

39 **SECTION 12B.3.(j)** Department of Health and Human Services, Division of Child
40 Development and Early Education, shall require all county departments of social services to
41 include on any forms used to determine eligibility for child care subsidy whether the family
42 waiting for subsidy is receiving assistance through the NC Pre-K Program or Head Start.

43 44 **CHILD CARE ALLOCATION FORMULA**

45 **SECTION 12B.4.(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 seventy-five percent (75%) of the State median income.
6 (2) No county's allocation shall be less than ninety percent (90%) of its State
7 fiscal year 2001-2002 initial child care subsidy allocation.
8 (3) For fiscal years 2013-2014 and 2014-2015, the Division of Child
9 Development and Early Education shall base the formula identified in
10 subdivision (1) of this subsection on the same data source used for the
11 2012-2013 fiscal year.
12 (4) The Department of Health and Human Services shall allocate to counties all
13 State funds appropriated for child care subsidy and shall not withhold funds
14 during the 2013-2014 and 2014-2015 fiscal years.

15 **SECTION 12B.4.(b)** The Department of Health and Human Services may
16 reallocate unused child care subsidy voucher funds in order to meet the child care needs of
17 low-income families. Any reallocation of funds shall be based upon the expenditures of all
18 child care subsidy voucher funding, including North Carolina Partnership for Children, Inc.,
19 funds within a county.
20

21 **CHILD CARE FUNDS MATCHING REQUIREMENTS**

22 **SECTION 12B.5.** No local matching funds may be required by the Department of
23 Health and Human Services as a condition of any locality's receiving its initial allocation of
24 child care funds appropriated by this act unless federal law requires a match. If the Department
25 reallocates additional funds above twenty-five thousand dollars (\$25,000) to local purchasing
26 agencies beyond their initial allocation, local purchasing agencies must provide a twenty
27 percent (20%) local match to receive the reallocated funds. Matching requirements shall not
28 apply when funds are allocated because of a disaster as defined in G.S. 166A-19.3(6).
29

30 **CHILD CARE REVOLVING LOAN**

31 **SECTION 12B.6.** Notwithstanding any law to the contrary, funds budgeted for the
32 Child Care Revolving Loan Fund may be transferred to and invested by the financial institution
33 contracted to operate the Fund. The principal and any income to the Fund may be used to make
34 loans, reduce loan interest to borrowers, serve as collateral for borrowers, pay the contractor's
35 cost of operating the Fund, or pay the Department's cost of administering the program.
36

37 **ADMINISTRATIVE ALLOWANCE FOR COUNTY DEPARTMENTS OF SOCIAL** 38 **SERVICES/USE OF SUBSIDY FUNDS FOR FRAUD DETECTION**

39 **SECTION 12B.7.(a)** The Department of Health and Human Services, Division of
40 Child Development and Early Education, shall fund the allowance that county departments of
41 social services may use for administrative costs at four percent (4%) of the county's total child
42 care subsidy funds allocated in the Child Care Development Fund Block Grant plan or eighty
43 thousand dollars (\$80,000), whichever is greater.

44 **SECTION 12B.7.(b)** Each county department of social services may use up to two
45 percent (2%) of child care subsidy funds allocated to the county for fraud detection and
46 investigation initiatives.
47

48 **STUDY USE OF UNIQUE STUDENT IDENTIFIER/CHILD CARE SUBSIDY**

49 **SECTION 12B.8.(a)** In coordination with the Department of Public Instruction
50 (DPI), the Department of Health and Human Services, Division of Child Development and
51 Early Education (DCDEE), shall study assigning a unique student identifier to monitor,

1 throughout their education, the performance levels of children receiving child care subsidies.
2 The study shall be designed to provide data on the efficacy of child care facilities participating
3 in the child care subsidy program or the North Carolina Partnership for Children, Inc. The
4 study shall define the requirements for the following:

- 5 (1) Establishing the unique identifier.
- 6 (2) Collecting, maintaining, and analyzing data.
- 7 (3) Recommending a solution that will allow for the cost-effective acquisition
8 and maintenance of data from child care facilities.
- 9 (4) Recommending an interface with DPI applications that monitors and
10 analyzes student performance.
- 11 (5) Estimating the cost for developing an interface and implementing the
12 requirements identified in the study.

13 **SECTION 12B.8.(b)** DCDEE shall report the results of the study to the Joint
14 Legislative Committee on Health and Human Services, the Joint Legislative Education
15 Oversight Committee, the Joint Legislative Oversight Committee on Information Technology,
16 and the Fiscal Research Division no later than April 1, 2014.
17

18 **EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES**
19 **ENHANCEMENTS/SALARY SCHEDULE/MATCH REQUIREMENT**
20 **ADJUSTMENTS**

21 **SECTION 12B.9.(a)** Policies. – The North Carolina Partnership for Children, Inc.,
22 and its Board shall establish policies that focus the North Carolina Partnership for Children,
23 Inc.'s mission on improving child care quality in North Carolina for children from birth to five
24 years of age. North Carolina Partnership for Children, Inc.-funded activities shall include
25 assisting child care facilities with (i) improving quality, including helping one-, two-, and
26 three-star rated facilities increase their star ratings and (ii) implementing prekindergarten
27 programs. State funding for local partnerships shall also be used for evidence-based or
28 evidence-informed programs for children from birth to five years of age that do the following:

- 29 (1) Increase children's literacy.
- 30 (2) Increase the parents' ability to raise healthy, successful children.
- 31 (3) Improve children's health.
- 32 (4) Assist four- and five-star rated facilities in improving and maintaining
33 quality.

34 **SECTION 12B.9.(b)** Administration. – Administrative costs shall be equivalent to,
35 on an average statewide basis for all local partnerships, not more than eight percent (8%) of the
36 total statewide allocation to all local partnerships. For purposes of this subsection,
37 administrative costs shall include costs associated with partnership oversight, business and
38 financial management, general accounting, human resources, budgeting, purchasing,
39 contracting, and information systems management. The North Carolina Partnership for
40 Children, Inc., shall develop a single statewide contract management system that incorporates
41 features of the required standard fiscal accountability plan described in
42 G.S. 143B-168.12(a)(4). All local partnerships shall be required to participate in the contract
43 management system and shall be directed by the North Carolina Partnership for Children, Inc.,
44 to collaborate, to the fullest extent possible, with other local partnerships to increase efficiency
45 and effectiveness.

46 **SECTION 12B.9.(c)** Salaries. – The salary schedule developed and implemented
47 by the North Carolina Partnership for Children, Inc., shall set the maximum amount of State
48 funds that may be used for the salary of the Executive Director of the North Carolina
49 Partnership for Children, Inc., and the directors of the local partnerships. The North Carolina
50 Partnership for Children, Inc., shall base the schedule on the following criteria:

- 51 (1) The population of the area serviced by a local partnership.

- 1 (2) The amount of State funds administered.
- 2 (3) The amount of total funds administered.
- 3 (4) The professional experience of the individual to be compensated.
- 4 (5) Any other relevant factors pertaining to salary, as determined by the North
- 5 Carolina Partnership for Children, Inc.

6 The salary schedule shall be used only to determine the maximum amount of State funds that
7 may be used for compensation. Nothing in this subsection shall be construed to prohibit a local
8 partnership from using non-State funds to supplement an individual's salary in excess of the
9 amount set by the salary schedule established under this subsection.

10 **SECTION 12B.9.(d)** Match Requirements. – It is the intent of the General
11 Assembly to continue to increase the percentage of the match of cash and in-kind contributions
12 required of the North Carolina Partnership for Children, Inc., and the local partnerships. The
13 North Carolina Partnership for Children, Inc., and all local partnerships shall, in the aggregate,
14 be required to match one hundred percent (100%) of the total amount budgeted for the program
15 in each fiscal year of the biennium. Of the funds the North Carolina Partnership for Children,
16 Inc., and the local partnerships are required to match, contributions of cash shall be equal to at
17 least eleven percent (11%), and in-kind donated resources shall be equal to no more than three
18 percent (3%) for a total match requirement of fourteen percent (14%) for the 2013-2014 fiscal
19 year; and contributions of cash shall be equal to at least eleven percent (11%), and in-kind
20 donated resources shall be equal to no more than four percent (4%) for a total match
21 requirement of fifteen percent (15%) for the 2014-2015 fiscal year. The North Carolina
22 Partnership for Children, Inc., may carry forward any amount in excess of the required match
23 for a fiscal year in order to meet the match requirement of the succeeding fiscal year. Only
24 in-kind contributions that are quantifiable shall be applied to the in-kind match requirement.
25 Volunteer services may be treated as an in-kind contribution for the purpose of the match
26 requirement of this subsection. Volunteer services that qualify as professional services shall be
27 valued at the fair market value of those services. All other volunteer service hours shall be
28 valued at the statewide average wage rate as calculated from data compiled by the Employment
29 Security Commission in the Employment and Wages in North Carolina Annual Report for the
30 most recent period for which data are available. Expenses, including both those paid by cash
31 and in-kind contributions, incurred by other participating non-State entities contracting with the
32 North Carolina Partnership for Children, Inc., or the local partnerships, also may be considered
33 resources available to meet the required private match. In order to qualify to meet the required
34 private match, the expenses shall:

- 35 (1) Be verifiable from the contractor's records.
- 36 (2) If in-kind, other than volunteer services, be quantifiable in accordance with
- 37 generally accepted accounting principles for nonprofit organizations.
- 38 (3) Not include expenses funded by State funds.
- 39 (4) Be supplemental to and not supplant preexisting resources for related
- 40 program activities.
- 41 (5) Be incurred as a direct result of the Early Childhood Initiatives Program and
- 42 be necessary and reasonable for the proper and efficient accomplishment of
- 43 the Program's objectives.
- 44 (6) Be otherwise allowable under federal or State law.
- 45 (7) Be required and described in the contractual agreements approved by the
- 46 North Carolina Partnership for Children, Inc., or the local partnership.
- 47 (8) Be reported to the North Carolina Partnership for Children, Inc., or the local
- 48 partnership by the contractor in the same manner as reimbursable expenses.

49 Failure to obtain a fourteen percent (14%) match by June 30 of the 2013-2014 fiscal
50 year and a fifteen percent (15%) match by June 30 of the 2014-2015 fiscal year shall result in a
51 dollar-for-dollar reduction in the appropriation for the Program for a subsequent fiscal year.

1 The North Carolina Partnership for Children, Inc., shall be responsible for compiling
2 information on the private cash and in-kind contributions into a report that is submitted to the
3 Joint Legislative Commission on Governmental Operations in a format that allows verification
4 by the Department of Revenue. The same match requirements shall apply to any expansion
5 funds appropriated by the General Assembly.

6 **SECTION 12B.9.(e)** Bidding. – The North Carolina Partnership for Children, Inc.,
7 and all local partnerships shall use competitive bidding practices in contracting for goods and
8 services on contract amounts as follows:

- 9 (1) For amounts of five thousand dollars (\$5,000) or less, the procedures
10 specified by a written policy to be developed by the Board of Directors of
11 the North Carolina Partnership for Children, Inc.
- 12 (2) For amounts greater than five thousand dollars (\$5,000), but less than fifteen
13 thousand dollars (\$15,000), three written quotes.
- 14 (3) For amounts of fifteen thousand dollars (\$15,000) or more, but less than
15 forty thousand dollars (\$40,000), a request for proposal process.
- 16 (4) For amounts of forty thousand dollars (\$40,000) or more, a request for
17 proposal process and advertising in a major newspaper.

18 **SECTION 12B.9.(f)** Allocations. – The North Carolina Partnership for Children,
19 Inc., shall not reduce the allocation for counties with less than 35,000 in population below the
20 2012-2013 funding level.

21 **SECTION 12B.9.(g)** Performance-Based Evaluation. – The Department of Health
22 and Human Services shall continue to implement the performance-based evaluation system.

23 **SECTION 12B.9.(h)** Expenditure Restrictions. – The Department of Health and
24 Human Services and the North Carolina Partnership for Children, Inc., shall ensure that the
25 allocation of funds for Early Childhood Education and Development Initiatives for State fiscal
26 years 2013-2014 and 2014-2015 shall be administered and distributed in the following manner:

- 27 (1) Capital expenditures are prohibited for fiscal years 2013-2014 and
28 2014-2015. For the purposes of this section, "capital expenditures" means
29 expenditures for capital improvements as defined in G.S. 143C-1-1(d)(5).
- 30 (2) Expenditures of State funds for advertising and promotional activities are
31 prohibited for fiscal years 2013-2014 and 2014-2015.

32 For fiscal years 2013-2014 and 2014-2015, local partnerships shall not spend any State funds
33 on marketing campaigns, advertising, or any associated materials. Local partnerships may
34 spend any private funds the local partnerships receive on those activities.

35 36 **SUBPART XII-C. DIVISION OF SOCIAL SERVICES**

37 38 **REVISE DATES/TANF BENEFIT IMPLEMENTATION**

39 **SECTION 12C.1.(a)** The General Assembly approves the plan titled "North
40 Carolina Temporary Assistance for Needy Families State Plan 2012-2015," prepared by the
41 Department of Health and Human Services and presented to the General Assembly. The North
42 Carolina Temporary Assistance for Needy Families State Plan covers the period October 1,
43 2012, through September 30, 2015. The Department shall submit the State Plan, as revised in
44 accordance with subsection (b) of this section and as amended by this act or any other act of the
45 2013 General Assembly, to the United States Department of Health and Human Services.

46 **SECTION 12C.1.(b)** The counties approved as Electing Counties in the North
47 Carolina Temporary Assistance for Needy Families State Plan 2012-2015, as approved by this
48 section are Beaufort, Caldwell, Catawba, Lenoir, Lincoln, Macon, and Wilson.

49 **SECTION 12C.1.(c)** Counties that submitted the letter of intent to remain as an
50 Electing County or to be redesignated as an Electing County and the accompanying county plan
51 for years 2012 through 2015 pursuant to G.S. 108A-27(e) shall operate under the Electing

1 County budget requirements effective July 1, 2012. For programmatic purposes, all counties
2 referred to in this subsection shall remain under their current county designation through
3 September 30, 2015.

4 **SECTION 12C.1.(d)** For the 2013-2014 fiscal year, Electing Counties shall be
5 held harmless to their Work First Family Assistance allocations for the 2012-2013 fiscal year,
6 provided that remaining funds allocated for Work First Family Assistance and Work First
7 Diversion Assistance are sufficient for payments made by the Department on behalf of
8 Standard Counties pursuant to G.S. 108A-27.11(b).

9 **SECTION 12C.1.(e)** In the event that departmental projections of Work First
10 Family Assistance and Work First Diversion Assistance for the 2013-2014 fiscal year indicate
11 that remaining funds are insufficient for Work First Family Assistance and Work First
12 Diversion Assistance payments to be made on behalf of Standard Counties, the Department is
13 authorized to deallocate funds, of those allocated to Electing Counties for Work First Family
14 Assistance in excess of the sums set forth in G.S. 108A-27.11, up to the requisite amount for
15 payments in Standard Counties. Prior to deallocation, the Department shall obtain approval by
16 the Office of State Budget and Management. If the Department adjusts the allocation set forth
17 in subsection (d) of this section, then a report shall be made to the Joint Legislative
18 Commission on Governmental Operations, the House of Representatives Appropriations
19 Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health
20 and Human Services, and the Fiscal Research Division.

21 22 **INTENSIVE FAMILY PRESERVATION SERVICES FUNDING AND** 23 **PERFORMANCE ENHANCEMENTS**

24 **SECTION 12C.2.(a)** Notwithstanding the provisions of G.S. 143B-150.6, the
25 Intensive Family Preservation Services (IFPS) Program shall provide intensive services to
26 children and families in cases of abuse, neglect, and dependency where a child is at imminent
27 risk of removal from the home and to children and families in cases of abuse where a child is
28 not at imminent risk of removal. The Program shall be developed and implemented statewide
29 on a regional basis. The IFPS shall ensure the application of standardized assessment criteria
30 for determining imminent risk and clear criteria for determining out-of-home placement.

31 **SECTION 12C.2.(b)** The Department of Health and Human Services shall require
32 that any program or entity that receives State, federal, or other funding for the purpose of IFPS
33 shall provide information and data that allows for the following:

- 34 (1) An established follow-up system with a minimum of six months of
35 follow-up services.
- 36 (2) Detailed information on the specific interventions applied, including
37 utilization indicators and performance measurement.
- 38 (3) Cost-benefit data.
- 39 (4) Data on long-term benefits associated with IFPS. This data shall be obtained
40 by tracking families through the intervention process.
- 41 (5) The number of families remaining intact and the associated interventions
42 while in IFPS and 12 months thereafter.
- 43 (6) The number and percentage, by race, of children who received IFPS
44 compared to the ratio of their distribution in the general population involved
45 with Child Protective Services.

46 **SECTION 12C.2.(c)** The Department shall establish a performance-based funding
47 protocol and shall only provide funding to those programs and entities providing the required
48 information specified in subsection (b) of this section. The amount of funding shall be based on
49 the individual performance of each program.

50 51 **CHILD CARING INSTITUTIONS**

1 **SECTION 12C.3.** Until the Social Services Commission adopts rules setting
2 standardized rates for child caring institutions as authorized under G.S. 143B-153(8), the
3 maximum reimbursement for child caring institutions shall not exceed the rate established for
4 the specific child caring institution by the Department of Health and Human Services, Office of
5 the Controller. In determining the maximum reimbursement, the State shall include county and
6 IV-E reimbursements.

7
8 **USE OF FOSTER CARE BUDGET FOR GUARDIANSHIP ASSISTANCE PROGRAM**

9 **SECTION 12C.4.** Of the funds available for the provision of foster care services,
10 the Department of Health and Human Services, Division of Social Services, may provide for
11 the financial support of children who are deemed to be (i) in a permanent family placement
12 setting, (ii) eligible for legal guardianship, and (iii) otherwise unlikely to receive permanency.
13 The Division of Social Services shall design the Guardianship Assistance Program (GAP) in
14 such a manner that no additional expenses are incurred beyond the funds budgeted for foster
15 care. The Guardianship Assistance Program rates shall reimburse the legal guardian for room
16 and board and be set at the same rate as the foster care room and board rates in accordance with
17 rates established under G.S. 108A-49.1. The Social Services Board shall adopt rules
18 establishing a Guardianship Assistance Program to implement this section, including defining
19 the phrase "legal guardian" as used in this section.
20

21 **CHILD WELFARE POSTSECONDARY SUPPORT PROGRAM (NC REACH)**

22 **SECTION 12C.5.(a)** Of the funds appropriated from the General Fund to the
23 Department of Health and Human Services, the sum of five hundred forty-seven thousand two
24 hundred forty-five dollars (\$547,245) for the 2013-2014 fiscal year and six hundred ten
25 thousand eight hundred seventeen dollars (\$610,817) for the 2014-2015 fiscal year shall be
26 used to expand support for the child welfare postsecondary support program for the educational
27 needs of foster youth aging out of the foster care system and special needs children adopted
28 from foster care after age 12 by providing assistance with the "cost of attendance" as that term
29 is defined in 20 U.S.C. § 108711. These funds shall be allocated by the State Education
30 Assistance Authority.

31 **SECTION 12C.5.(b)** Of the funds appropriated from the General Fund to the
32 Department of Health and Human Services, the sum of fifty thousand dollars (\$50,000) for the
33 2013-2014 fiscal year and the sum of fifty thousand dollars (\$50,000) for the 2014-2015 fiscal
34 year shall be allocated to the North Carolina State Education Assistance Authority (SEAA).
35 The SEAA shall use these funds only to perform administrative functions necessary to manage
36 and distribute scholarship funds under the child welfare postsecondary support program.

37 **SECTION 12C.5.(c)** Of the funds appropriated from the General Fund to the
38 Department of Health and Human Services, the sum of three hundred thirty-nine thousand four
39 hundred ninety-three dollars (\$339,493) for the 2013-2014 fiscal year and the sum of three
40 hundred thirty-nine thousand four hundred ninety-three dollars (\$339,493) for the 2014-2015
41 fiscal year shall be used to contract with an entity to administer the child welfare postsecondary
42 support program described under subsection (a) of this section, which administration shall
43 include the performance of case management services.

44 **SECTION 12C.5.(d)** Funds appropriated to the Department of Health and Human
45 Services for the child welfare postsecondary support program shall be used only for students
46 attending public institutions of higher education in this State.
47

48 **REQUIRE DRUG TESTING/WORK FIRST PROGRAM ASSISTANCE**

49 **SECTION 12C.6.(a)** G.S. 108A-29.1 reads as rewritten:

50 "**§ 108A-29.1. Substance abuse treatment required; drug testing required for Work**
51 **First Program applicants and recipients.**"

1 (a) ~~Each applicant or current recipient of Work First Program benefits, determined by a~~
2 ~~Qualified Professional in Substance Abuse (QPSA) or by a physician certified by the American~~
3 ~~Society of Addiction Medicine (ASAM) to be addicted to alcohol or drugs and to be in need of~~
4 ~~professional substance abuse treatment services shall be required, as part of the person's MRA~~
5 ~~and as a condition to receiving Work First Program benefits, to participate satisfactorily in an~~
6 ~~individualized plan of treatment in an appropriate treatment program. As a mandatory program~~
7 ~~component of participation in an addiction treatment program, each applicant or current~~
8 ~~recipient shall be required to submit to an approved, reliable, and professionally administered~~
9 ~~regimen of testing for presence of alcohol or drugs, without advance notice, during and after~~
10 ~~participation, in accordance with the addiction treatment program's individualized plan of~~
11 ~~treatment, follow up, and continuing care services for the applicant or current recipient. The~~
12 ~~Department shall require a drug test to screen each applicant for or recipient of Work First~~
13 ~~Program assistance. The cost of the drug testing is the responsibility of the individual tested.~~
14 ~~The Department shall provide notice of drug testing to each applicant or recipient. The notice~~
15 ~~shall advise the applicant or recipient that drug testing will be conducted as a condition of~~
16 ~~receiving Work First Program assistance, and that the results of the drug tests will remain~~
17 ~~confidential and will not be released to law enforcement. The applicant or recipient shall be~~
18 ~~advised that the required drug testing may be avoided if the applicant or recipient does not~~
19 ~~apply for Work First Program assistance. Dependent children under the age of 18 are exempt~~
20 ~~from the requirements of this section. The Department shall require the following:~~

- 21 (1) That for two-parent households, both parents comply with the drug testing
22 requirement.
- 23 (2) That any teen parent who is emancipated pursuant to Article 35 of Chapter
24 7B of the General Statutes comply with the drug testing requirement.
- 25 (3) That each applicant or recipient be advised before testing that he or she may
26 inform the agent administering the test of any prescription or
27 over-the-counter medication he or she is taking.
- 28 (4) That each applicant or recipient being tested sign a written
29 acknowledgement that he or she has received and understood the notice and
30 advice provided under this subsection.
- 31 (5) That each applicant or recipient who fails a drug test understands that he or
32 she has the right to take one or more additional tests.

33 (b) ~~An applicant or current recipient who fails to comply with any requirement imposed~~
34 ~~pursuant to this section shall not be eligible for benefits or shall be subject to the termination of~~
35 ~~benefits, but shall be considered to be receiving benefits for purposes of determining eligibility~~
36 ~~for medical assistance. For an applicant or current recipient who tests negative for controlled~~
37 ~~substances, the Department shall increase the amount of the initial Work First Program~~
38 ~~assistance by the amount paid by the applicant or recipient for the drug testing. An applicant or~~
39 ~~recipient who tests positive for controlled substances as a result of a drug test required under~~
40 ~~this section is ineligible to receive Work First Program assistance for one year from the date of~~
41 ~~the positive drug test, except as provided in subsection (b1) of this section. The individual may~~
42 ~~reapply after one year. However, if the individual has any subsequent positive drug tests, the~~
43 ~~individual shall be ineligible for benefits for three years from the date of the subsequent~~
44 ~~positive drug test unless the individual reapplies pursuant to subsection (b1) of this section.~~

45 (b1) An applicant or recipient deemed ineligible may reapply for Work First Program
46 assistance if the individual can document the successful completion of a substance abuse
47 treatment program offered by a provider under subsection (e) of this section and licensed by the
48 Department. The applicant or recipient who reapplies for Work First Program assistance after
49 completion of a substance abuse program shall pass a drug test. The cost of any drug testing
50 and substance abuse program provided under this subsection shall be the responsibility of the
51 applicant or recipient being tested and receiving treatment. An applicant or recipient who

1 reapplies for Work First Program assistance pursuant to this subsection may reapply one time
2 only.

3 (c) The children of any applicant or current recipient shall remain eligible for benefits,
4 and these benefits shall be paid to a protective payee pursuant to G.S. 108A-38.

5 (d) ~~An applicant or current recipient shall not be regarded as failing to comply with the~~
6 ~~requirements of this section if an appropriate drug or alcohol treatment program is~~
7 ~~unavailable.~~ The Social Services Commission shall adopt rules pertaining to the testing of
8 applicants and recipients under this section.

9 (e) Area mental health authorities organized pursuant to Article 4 of Chapter 122C of
10 the General Statutes shall be responsible for administering the provisions of this section.

11 (f) ~~The requirements of this section may be waived or modified as necessary in the case~~
12 ~~of individual applicants or recipients to the degree necessary to comply with Medicaid~~
13 ~~eligibility provisions."~~

14 **SECTION 12C.6.(b)** The Department of Health and Human Services, Division of
15 Social Services, shall report to the Joint Legislative Committee on Health and Human Services
16 and the Fiscal Research Division no later than April 1, 2014, on the implementation of this
17 section.

18 **SECTION 12C.6.(c)** This section becomes effective November 1, 2013.

19 **DSS STUDY/PROCEDURES FOR REPORTING CHILD ABUSE**

20 **SECTION 12C.7.(a)** The Department of Health and Human Services, Division of
21 Social Services, shall study the policies and procedures in place for reporting child abuse. In
22 conducting the study, the Division shall review the following:
23

- 24 (1) Reports of child abuse in child care facilities.
- 25 (2) How reports of child abuse are received.
- 26 (3) The number of inaccurate reports of child abuse the Division receives
27 annually.
- 28 (4) The number of children the Division has placed in child protective services
29 pursuant to a report of child abuse.
- 30 (5) The reasons a child is placed in child protective services pursuant to a report
31 of child abuse.
- 32 (6) The procedures the Division follows after determining child abuse has
33 occurred as well as the procedures the Division follows after determining
34 child abuse has not occurred.
- 35 (7) The number of reports the Division has determined to be false and a
36 summary of actions taken in response to false reports.
- 37 (8) Procedures and actions the Division follows in removing or redacting reports
38 or other information made available to the public regarding an individual
39 accused of child abuse or a child care facility where the alleged abuse
40 occurred when there is a determination that no abuse has occurred.
- 41 (9) Any recommendations the Division has for improving the process for
42 reporting instances of child abuse.

43 **SECTION 12C.7.(b)** The Division of Social Services shall report the results of the
44 study and any recommendations to the Joint Legislative Committee on Health and Human
45 Services and the Fiscal Research Division no later than April 1, 2014.

46 **CODIFY WORK FIRST FAMILY ASSISTANCE ELIGIBILITY AND PAYMENT** 47 **LEVELS**

48 **SECTION 12C.8.** Part 2 of Article 2 of Chapter 108A of the General Statutes is
49 amended by adding a new section to read as follows:
50

51 **"§ 108A-27A. Income eligibility and payment level for Work First Family Assistance.**

1 The maximum net family annual income eligibility standards for Work First Family
2 Assistance are the same standards of need for eligibility for the categorically needy under the
3 Medicaid Program, as provided in the eligibility table found in G.S. 108-54.6(a). The payment
4 level for Work First Family Assistance shall be fifty percent (50%) of the standard of need."
5

6 **SUBPART XII-D. DIVISION OF AGING AND ADULT SERVICES**

7

8 **STATEWIDE IMPLEMENTATION OF PROJECT C.A.R.E.**

9 **SECTION 12D.1.(a)** Funds appropriated in this act to the Department of Health
10 and Human Services, Division of Aging & Adult Services, for the 2013-2015 fiscal biennium
11 for the Caregiver Alternatives to Running On Empty project (Project C.A.R.E.) shall be used to
12 support Alzheimer's-related activities consistent with the goals of Project C.A.R.E. in all 100
13 counties. By no later than December 31, 2013, the Department shall submit a report on the
14 progress of statewide implementation of Project C.A.R.E. to the Joint Legislative Oversight
15 Committee on Health and Human Services, the Fiscal Research Division, and the Governor's
16 Advisory Council on Aging.

17 **SECTION 12D.1.(b)** Section 10.35B of S.L. 2010-31 is repealed.
18

19 **TIERED STATE-COUNTY SPECIAL ASSISTANCE PILOT**

20 **SECTION 12D.2.(a)** It is the intent of the General Assembly to create a
21 State-County Special Assistance program that allows counties greater flexibility in serving
22 individual needs within their communities and greater control over how county funds are used
23 to support this program in light of the fact that counties are required to pay for fifty percent
24 (50%) of the costs of this program. To that end, the General Assembly directs the Department
25 of Health and Human Services to establish a pilot program in accordance with subsection (b) of
26 this section.

27 **SECTION 12D.2.(b)** The Department of Health and Human Services, Division of
28 Aging and Adult Services, shall establish a pilot program to implement a tiered rate structure
29 within the State-County Special Assistance program for individuals residing in group homes,
30 in-home living arrangements, and assisted living residences as defined in G.S. 131D-2.1. The
31 purposes of the pilot program are to (i) determine the best way to implement a block grant for
32 this program statewide and (ii) test the feasibility and effectiveness of implementing a tiered
33 rate structure to address program participants' intensity of need, including medication
34 management. The Department shall select a minimum of four and a maximum of six counties
35 to participate in the pilot program, at least two of which shall be rural counties and at least two
36 of which shall be urban counties. The pilot program shall be implemented during the
37 2013-2014 fiscal year for at least a 12-month period.

38 **SECTION 12D.2.(c)** The Department shall implement the pilot program in
39 collaboration with the local departments of social services in the counties selected for
40 participation. As part of the pilot program, the selected counties shall receive a State General
41 Fund allocation as a block grant to be equally matched with county general funds. The General
42 Fund allocation provided to each county participating in the pilot program shall be calculated
43 based upon the average annual Special Assistance expenditures for that county during the
44 2011-2013 fiscal biennium, adjusted for the amount of projected annual growth in the number
45 of Special Assistance recipients in that county during the 2013-2015 fiscal biennium. These
46 funds may be used to pay for room, board, and personal care services, including medication
47 management, for individuals eligible to receive State-County Special Assistance, subject to the
48 following limitations and requirements:

- 49 (1) These funds shall not be used to cover any portion of the cost of providing
50 services for which an individual receives Medicaid coverage.

- 1 (2) The pilot program shall comply with all federal and State requirements
2 governing the existing State-County Special Assistance program.
- 3 (3) The tiered rate structure shall be based upon intensity of need, and an
4 individual's placement within a tier shall be based upon an independent
5 assessment of the individual's need for room, board, and assistance with
6 activities of daily living, including medication management.

7 **SECTION 12D.2.(d)** By no later than February 1, 2014, the Department shall
8 submit a progress report on the implementation and operation of the pilot program, including
9 any obstacles to implementation; and by no later than February 1, 2015, the Department shall
10 submit a final report on the results of the pilot program, along with any recommendations based
11 on these results, to the Joint Legislative Oversight Committee on Health and Human Services
12 and the Fiscal Research Division. The report due by February 1, 2015, shall include
13 information from all participating counties on at least all of the following:

- 14 (1) The amount of the tiered rates implemented as part of the pilot program.
15 (2) The cost methodology for determining these tiered rates.
16 (3) The number of individuals participating in the pilot program while residing
17 in a group home.
18 (4) The number of individuals participating in the pilot program while residing
19 in an in-home living arrangement.
20 (5) The number of individuals participating in the pilot program while residing
21 in an assisted living residence as defined by G.S. 131D-2.1, broken down by
22 facility type.
23 (6) A comparison of the number of recipients of State-County Special
24 Assistance prior to and during the pilot program, broken down by county
25 and living arrangement.
26 (7) Any other information the Department deems relevant for determining the
27 best way to implement a block grant statewide for the State-County Special
28 Assistance program.

29 **SECTION 12D.2.(e).** As used in this section, the term "group home" means any
30 facility that (i) is licensed under Chapter 122C of the General Statutes, (ii) meets the definition
31 of a supervised living facility under 10A NCAC 27G .5601, and (iii) serves adults whose
32 primary diagnosis is mental illness or a developmental disability but may also have other
33 diagnoses.

34 35 **SUBPART XII-E. DIVISION OF PUBLIC HEALTH**

36 37 **INCREASE PERMIT FEES FOR CERTAIN FOOD AND LODGING** 38 **ESTABLISHMENTS**

39 **SECTION 12E.1.(a)** G.S. 130A-247 is amended by adding a new subdivision to
40 read:

- 41 "(8) "Temporary food establishment" means an establishment not otherwise
42 exempted from this part pursuant to G.S. 130A-250 that (i) prepares or
43 serves food, (ii) operates for a period of time not to exceed 21 days in one
44 location, and (iii) is affiliated with and endorsed by a transitory fair,
45 carnival, circus, festival, or public exhibition."

46 **SECTION 12E.1.(b)** G.S. 130A-248(d) reads as rewritten:

47 "(d) The Department shall charge each establishment subject to this section, except
48 nutrition programs for the elderly administered by the Division of Aging and Adult Services of
49 the Department of Health and Human Services, establishments that prepare and sell meat food
50 products or poultry products, temporary food establishments, limited food services
51 establishments, and public school cafeterias, a fee of ~~seventy-five~~one hundred twenty dollars

1 (~~\$75.00~~)(\$120.00) for each permit issued. This fee shall be reassessed annually for permits that
2 do not expire. The Commission shall adopt rules to implement this subsection. Fees collected
3 under this subsection shall be used for State and local food, lodging, and institution sanitation
4 programs and activities. No more than ~~thirty-three and one-third percent (33 1/3%)~~ of the
5 ~~fees~~fifty dollars (\$50.00) of each fee collected under this subsection may be used to support
6 State health programs and activities."

7 **SECTION 12E.1.(c)** G.S. 130A-248(d1) reads as rewritten:

8 "(d1) The Department shall charge a twenty-five dollar (\$25.00) late payment fee to any
9 establishment subject to this section, except nutrition programs for the elderly administered by
10 the Division of Aging of the Department of Health and Human Services, establishments that
11 prepare and sell meat food products or poultry products, temporary food establishments, limited
12 food services establishments, and public school cafeterias, that fails to pay the fee required by
13 subsection (d) of this section within 45 days after billing by the Department. The Department
14 may, in accordance with G.S. 130A-23, suspend the permit of an establishment that fails to pay
15 the required fee within 60 days after billing by the Department. The Department shall charge a
16 reinstatement fee of one hundred fifty dollars (\$150.00) to any establishment that requests
17 reinstatement of its permit after the permit has been suspended. The Commission shall adopt
18 rules to implement this subsection.

19 The clear proceeds of civil penalties collected pursuant to this subsection shall be remitted
20 to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

21 **SECTION 12E.1.(d)** G.S. 130A-248 is amended by adding a new subsection to
22 read:

23 "(d2) A local health department shall charge each temporary food establishment and each
24 limited food services establishment a fee of seventy-five dollars (\$75.00) for each permit
25 issued. A local health department shall use all fees collected under this subsection for local
26 food, lodging, and institution sanitation programs and activities."

27 **SECTION 12E.1.(e)** Subsections (a) through (d) of this section become effective
28 on July 1, 2013, and apply to food and lodging permits effective or reassessed on or after July
29 1, 2013.

30 **SECTION 12E.1.(f)** Section 31.11A of S.L. 2011-145, as amended by Section 61A
31 of S.L. 2011-391 and Section 10.15 of S.L. 2012-142, is repealed.

32 **MODIFICATIONS TO ORAL HEALTH STRATEGY**

33 **SECTION 12E.2.(a)** It is the intent of the General Assembly to redirect the
34 resources of the Oral Health Section within the Department of Health and Human Services,
35 Division of Public Health, to provide direct clinical care in dental clinics operated or sponsored
36 by local health departments.

37 **SECTION 12E.2.(b)** Effective October 1, 2013, the Secretary of Health and
38 Human Services shall eliminate 39 full-time equivalent dental hygienist positions, two full-time
39 equivalent dental equipment technician positions, and seven full-time equivalent administrative
40 positions within the Oral Health Section of the Division of Public Health. The Secretary shall
41 reallocate the funds that become available as a result of eliminating the 39 full-time equivalent
42 dental hygienist positions and the two full-time equivalent dental equipment technician
43 positions in the form of grants-in-aid to local health departments that operate or sponsor dental
44 clinics. The local health departments shall use these grants-in-aid for the sole purpose of hiring
45 dental hygienists or dental assistants to provide direct clinical care in the dental clinics operated
46 or sponsored by the local health departments.

47 **SECTION 12E.2.(c)** By no later than February 1, 2014, the Department shall
48 submit a revised statewide oral health strategic plan to the Joint Legislative Oversight
49 Committee on Health and Human Services and the Fiscal Research Division. The plan shall
50 include at least all of the following:
51

- 1 (1) Recommendations for reorganizing the Department's Oral Health Section.
- 2 (2) Strategies for reducing oral diseases through prevention, education, and
- 3 health promotion services.
- 4 (3) Strategies for monitoring public oral health.
- 5 (4) Strategies for increasing access to dental care.
- 6

7 FUNDS FOR SCHOOL NURSES

8 **SECTION 12E.3.(a)** All funds appropriated in this act for the School Nurse
9 Funding Initiative shall be used to supplement and not supplant other State, local, or federal
10 funds appropriated or allocated for this purpose. Communities shall maintain their current level
11 of effort and funding for school nurses. These funds shall not be used to fund nurses for State
12 agencies. These funds shall be distributed to local health departments according to a formula
13 that includes all of the following:

- 14 (1) School nurse-to-student ratio.
- 15 (2) Percentage of students eligible for free or reduced meals.
- 16 (3) Percentage of children in poverty.
- 17 (4) Per capita income.
- 18 (5) Eligibility as a low-wealth county.
- 19 (6) Mortality rates for children between one and 19 years of age.
- 20 (7) Percentage of students with chronic illnesses.
- 21 (8) Percentage of county population consisting of minority persons.

22 **SECTION 12E.3.(b)** The Division of Public Health shall ensure that school nurses
23 funded with State funds (i) do not assist in any instructional or administrative duties associated
24 with a school's curriculum and (ii) perform all of the following with respect to school health
25 programs:

- 26 (1) Serve as the coordinator of the health services program and provide nursing
27 care.
- 28 (2) Provide health education to students, staff, and parents.
- 29 (3) Identify health and safety concerns in the school environment and promote a
30 nurturing school environment.
- 31 (4) Support healthy food services programs.
- 32 (5) Promote healthy physical education, sports policies, and practices.
- 33 (6) Provide health counseling, assess mental health needs, provide interventions,
34 and refer students to appropriate school staff or community agencies.
- 35 (7) Promote community involvement in assuring a healthy school and serve as
36 school liaison to a health advisory committee.
- 37 (8) Provide health education and counseling and promote healthy activities and
38 a healthy environment for school staff.
- 39 (9) Be available to assist the county health department during a public health
40 emergency.

41 **SECTION 12E.3.(c)** Section 6.9(b) of S.L. 2011-145, as amended by Section 6.2
42 of S.L. 2012-142, is repealed.

43 CHILDREN'S DEVELOPMENTAL SERVICE AGENCIES

44 **SECTION 12E.4.** In order to reduce the amount of State funds appropriated for the
45 Children's Developmental Service Agencies (CDSAs) program, the Department of Health and
46 Human Services, Division of Public Health, shall close four CDSAs, effective July 1, 2014.
47 The Department shall retain the CDSAs with the highest caseloads of children residing in rural
48 and medically underserved areas. By no later than March 1, 2014, the Department shall submit
49 a report to the Joint Legislative Oversight Committee on Health and Human Services and the
50

1 Fiscal Research Division identifying the four CDSAs selected for closure in accordance with
2 this section.

3 4 **AIDS DRUG ASSISTANCE PROGRAM**

5 **SECTION 12E.5.(a)** The Department of Health and Human Services shall work
6 with the Department of Public Safety (DPS) to use DPS funds to purchase pharmaceuticals for
7 the treatment of individuals in the custody of DPS who have been diagnosed with Human
8 Immunodeficiency Virus or Acquired Immune Deficiency Syndrome (HIV/AIDS) in a manner
9 that allows these funds to be accounted for as State matching funds in the Department of Health
10 and Human Services drawdown of federal Ryan White funds earmarked for the AIDS Drug
11 Assistance Program (ADAP).

12 **SECTION 12E.5.(b)** By no later than April 1, 2014, and by no later than April 1,
13 2015, the Department of Health and Human Services, Division of Public Health, shall submit a
14 report to the Joint Legislative Oversight Committee on Health and Human Services and the
15 Fiscal Research Division on all of the following:

- 16 (1) Use of the funds appropriated to support ADAP for the preceding fiscal year.
- 17 (2) Steps taken by DHHS to reduce the waiting list for ADAP.
- 18 (3) Alternative options for serving individuals diagnosed with HIV/AIDS who
19 are eligible to receive services under ADAP, including the State Medicaid
20 program and the federally facilitated Health Benefit Exchange that will
21 operate in this State.

22 23 **COMMUNITY-FOCUSED ELIMINATING HEALTH DISPARITIES INITIATIVE**

24 **SECTION 12E.6.(a)** Funds appropriated in this act to the Department of Health
25 and Human Services, Division of Public Health, for the Community-Focused Eliminating
26 Health Disparities Initiative (CFEHDI) shall be used to provide a maximum of 12 grants-in-aid
27 to close the gap in the health status of African-Americans, Hispanics/Latinos, and American
28 Indians as compared to the health status of white persons. These grants-in-aid shall focus on the
29 use of measures to eliminate or reduce health disparities among minority populations in this
30 State with respect to heart disease, stroke, diabetes, obesity, asthma, HIV/AIDS, and cancer.
31 The Office of Minority Health shall coordinate and implement the grants-in-aid program
32 authorized by this section.

33 **SECTION 12E.6.(b)** In implementing the grants-in-aid program authorized by
34 subsection (a) of this section, the Department shall ensure all of the following:

- 35 (1) The amount of any grant-in-aid is limited to three hundred thousand dollars
36 (\$300,000).
- 37 (2) Only community-based organizations, faith-based organizations, local health
38 departments, hospitals, and CCNC networks located in urban and rural areas
39 of the western, eastern, and Piedmont areas of this State are eligible to apply
40 for these grants-in-aid. No more than four grants-in-aid shall be awarded to
41 applicants located in any one of the three areas specified in this subdivision.
- 42 (3) Each eligible applicant shall be required to demonstrate substantial
43 participation and involvement with all other categories of eligible applicants,
44 in order to ensure an evidence-based medical home model that will affect
45 change in health and geographic disparities.
- 46 (4) Eligible applicants shall select one or more of the following chronic illnesses
47 or conditions specific to the applicant's geographic area as the basis for
48 applying for a grant-in-aid under this section to affect change in the health
49 status of African-Americans, Hispanics/Latinos, or American Indians:
 - 50 a. Heart Disease.
 - 51 b. Stroke.

- c. Diabetes.
- d. Obesity.
- e. Asthma.
- f. HIV/AIDS.
- g. Cancer.

- (5) The minimum duration of the grant period for any grant-in-aid is two years.
- (6) The maximum duration of the grant period for any grant-in-aid is three years.
- (7) If approved for a grant-in-aid, the grantee (i) shall not use more than eight percent (8%) of the grant funds for overhead costs and (ii) shall be required at the end of the grant period to demonstrate significant gains in addressing one or more of the health disparity focus areas identified in subsection (a) of this section.
- (8) An independent panel with expertise in the delivery of services to minority populations, health disparities, chronic illnesses and conditions, and HIV/AIDS shall conduct the review of applications for grants-in-aid. The Department shall establish the independent panel required by this section.

SECTION 12E.6.(c) The grants-in-aid awarded under this section shall be awarded in honor of the memory of the following deceased members of the General Assembly: Bernard Allen, Pete Cunningham, John Hall, Robert Holloman, Howard Hunter, Ed Jones, Jeanne Lucas, Vernon Malone, William Martin, and William Wainwright. These funds shall be used for concerted efforts to address large gaps in health status among North Carolinians who are African-American, as well as disparities among other minority populations in North Carolina.

SECTION 12E.6.(d) Section 10.21(d) of S.L. 2011-145 reads as rewritten:

"SECTION 10.21.(d) By ~~October 1, 2012, and annually thereafter,~~ October 1, 2013, the Department shall submit a report to ~~the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committee on Health and Human Services~~ and the Fiscal Research Division on funds appropriated to the CFEHDI. The report shall include specific activities undertaken pursuant to subsection (a) of this section to address large gaps in health status among North Carolinians who are African-American and other minority populations in this State, and shall also address all of the following:

- (1) Which community-based organizations, faith-based organizations, local health departments, hospitals, and CCNC networks received CFEHDI grants-in-aid.
- (2) The amount of funding awarded to each grantee.
- (3) Which of the minority populations were served by each grantee.
- (4) Which community-based organizations, faith-based organizations, local health departments, hospitals, and CCNC networks were involved in fulfilling the goals and activities of each grant-in-aid awarded under this section and what activities were planned and implemented by the grantee to fulfill the community focus of the CFEHDI program.
- (5) How the activities implemented by the grantee fulfilled the goal of reducing health disparities among minority populations, and the specific success in reducing particular incidences."

STRATEGIES FOR IMPROVING MEN'S HEALTH

SECTION 12E.7. Article 7 of Chapter 130A of the General Statutes is amended by adding a new Part to read:

"Part 5A. Men's Health.

"§ 130A-223.1. Department to establish strategies for improving men's health.

1 The Department of Health and Human Services, Division of Public Health, Chronic Disease
2 and Injury Prevention Section, shall work to expand the State's attention and focus on the
3 prevention of disease and improvement in the quality of life for men over their entire lifespan.
4 The Department shall develop strategies for achieving these goals, which shall include, but not
5 be limited to, all of the following:

- 6 (1) Developing a strategic plan to improve health care services.
- 7 (2) Building public health awareness.
- 8 (3) Developing initiatives within existing programs.
- 9 (4) Pursuing federal and State funding for the screening, early detection, and
10 treatment of prostate cancer and other diseases affecting men's health."

11
12 **INCREASE NORTH CAROLINA MEDICAL EXAMINER AUTOPSY FEES**

13 **SECTION 12E.8.(a)** G.S. 130A-389(a) reads as rewritten:

14 "(a) If, in the opinion of the medical examiner investigating the case or of the Chief
15 Medical Examiner, it is advisable and in the public interest that an autopsy or other study be
16 made; or, if an autopsy or other study is requested by the district attorney of the county or by
17 any superior court judge, an autopsy or other study shall be made by the Chief Medical
18 Examiner or by a competent pathologist designated by the Chief Medical Examiner. A
19 complete autopsy report of findings and interpretations, prepared on forms designated for the
20 purpose, shall be submitted promptly to the Chief Medical Examiner. Subject to the limitations
21 of G.S. 130A-389.1 relating to photographs and video or audio recordings of an autopsy, a
22 copy of the report shall be furnished to any person upon request. A fee for the autopsy or other
23 study shall be paid by the State. However, if the deceased is a resident of the county in which
24 the death or fatal injury occurred, that county shall pay the fee. The fee shall be one thousand
25 two hundred fifty dollars ~~(\$1,000).~~ (\$1,250)."

26 **SECTION 12E.8.(b)** This section becomes effective July 1, 2013, and applies to
27 fees imposed for autopsies performed on or after that date.

28
29 **SUBPART XII-F. DIVISION OF MH/DD/SAS AND STATE OPERATED**
30 **HEALTHCARE FACILITIES**

31
32 **ESTABLISH STATEWIDE TELEPSYCHIATRY PROGRAM**

33 **SECTION 12F.1.(a)** By no later than October 1, 2013, the Department of Health
34 and Human Services, Division of Mental Health, Developmental Disabilities, and Substance
35 Abuse Services, shall develop and submit a plan for implementation of a statewide
36 telepsychiatry program to the Joint Legislative Oversight Committee on Health and Human
37 Services and the Fiscal Research Division. The plan shall be substantially similar to the
38 Albemarle Hospital Foundation telepsychiatry program currently operating in 12 hospitals in
39 eastern North Carolina and include at least all of the following:

- 40 (1) Specific steps to be taken by the Department, within a specified time period,
41 to establish and administer the program statewide.
- 42 (2) Program costs and rates of payment for telepsychiatry services.
- 43 (3) Recommendations for addressing liability issues related to participation in
44 telepsychiatry.

45 **SECTION 12F.1.(b)** Chapter 122C of the General Statutes is amended by adding a
46 new Article to read:

47 "Article 1B.

48 "Statewide Telepsychiatry Program.

49 **"§ 122C-20.5. Department to establish statewide telepsychiatry program.**

50 (a) The following definitions apply in this section:

- 1 (1) Consultant site. – The site at which the consulting provider is physically
2 located at the time the consulting provider delivers the acute mental health or
3 substance abuse care by means of telepsychiatry.
4 (2) Referring site. – A hospital licensed under Chapter 131E of the General
5 Statutes at which a patient experiencing an acute mental health or substance
6 abuse crisis is physically located.
7 (3) Telepsychiatry. – The delivery of acute mental health or substance abuse
8 care, including diagnosis or treatment, by means of two-way real-time
9 interactive audio or video by a consulting provider at a consultant site to an
10 individual patient at a referring site. The term does not include the standard
11 use of telephones, facsimile transmissions, unsecured electronic mail, or a
12 combination of these in the course of care.
13 (4) Consulting provider. – A physician or other health care provider licensed in
14 this State to provide acute mental health or substance abuse care.
15 (b) By no later than January 1, 2014, the Division of Mental Health, Developmental
16 Disabilities, and Substance Abuse Services shall establish a statewide telepsychiatry program
17 that allows referring sites to utilize consulting providers at a consultant site to provide timely
18 psychiatric assessment and rapid initiation of treatment for patients at the referring site
19 experiencing an acute mental health or substance abuse crisis.

20 (c) The Commission shall adopt rules necessary to implement this section. The rules
21 shall specify at least all of the following:

- 22 (1) Requirements to ensure the health and safety of patients.
23 (2) Participation and equipment requirements for consultant sites, consulting
24 providers, and referring sites.
25 (3) Rates of payment for telepsychiatry services.
26 (d) The Department shall periodically evaluate the effectiveness of the statewide
27 telepsychiatry program."

28 **SECTION 12F.1.(c)** G.S. 143B-147(a)(1) is amended by adding a new
29 sub-subdivision to read:

- 30 "(1) To adopt rules regarding the
31 ...
32 g. Statewide telepsychiatry program established pursuant to
33 G.S. 122C-20.5."

34 **SECTION 12F.1.(d)** Funds appropriated in this act to the Department of Health
35 and Human Services, Division of Mental Health, Developmental Disabilities, and Substance
36 Abuse Services, for the 2013-2015 fiscal biennium for the statewide telepsychiatry program
37 shall be used for the following purposes:

- 38 (1) To establish and administer the statewide telepsychiatry program authorized
39 in G.S. 122C-20.5.
40 (2) To purchase needed telepsychiatry equipment for State-owned and
41 State-operated hospitals participating in the statewide telepsychiatry
42 program.
43 (3) To contract with an outside vendor for management of the statewide
44 telepsychiatry program.

45 **FUNDS FOR LOCAL INPATIENT PSYCHIATRIC BEDS OR BED DAYS**

46 **SECTION 12F.2.(a)** Use of Funds. – Of the funds appropriated in Section 2.1 of
47 this act to the Department of Health and Human Services, Division of Mental Health,
48 Developmental Disabilities, and Substance Abuse Services, for crisis services, the sum of
49 thirty-eight million one hundred twenty-one thousand six hundred forty-four dollars
50 (\$38,121,644) for the 2013-2014 fiscal year and the sum of thirty-eight million one hundred
51 dollars (\$38,121,644) for the 2014-2015 fiscal year.

1 twenty-one thousand six hundred forty-four dollars (\$38,121,644) for the 2014-2015 fiscal year
2 shall be used to purchase additional local inpatient psychiatric beds or bed days not currently
3 funded by or through LME/MCOs. In addition, at the discretion of the Secretary of Health and
4 Human Services, existing funds allocated to LME/MCOs for community-based mental health,
5 developmental disabilities, and substance abuse services may be used to purchase additional
6 local inpatient psychiatric beds or bed days. Funds designated in this subsection for the
7 purchase of local inpatient psychiatric beds or bed days shall not be used to supplant other
8 funds appropriated or otherwise available to the Department for the purchase of inpatient
9 psychiatric services through contracts with local hospitals.

10 **SECTION 12F.2.(b)** Distribution and Management of Beds or Bed Days. – The
11 Department shall work to ensure that any local inpatient psychiatric beds or bed days purchased
12 in accordance with this section are distributed across the State in LME/MCO catchment areas
13 and according to need as determined by the Department. The Department shall enter into
14 contracts with LME/MCOs and local hospitals for the management of these beds or bed days.
15 The Department shall work to ensure that these contracts are awarded equitably around all
16 regions of the State. LME/MCOs shall manage and control these local inpatient psychiatric
17 beds or bed days, including the determination of the specific local hospital or State psychiatric
18 hospital to which an individual should be admitted pursuant to an involuntary commitment
19 order.

20 **SECTION 12F.2.(c)** Funds to be Held in Statewide Reserve. – Funds appropriated
21 to the Department for the purchase of local inpatient psychiatric beds or bed days shall not be
22 allocated to LME/MCOs but shall be held in a statewide reserve at the Division of Mental
23 Health, Developmental Disabilities, and Substance Abuse Services to pay for services
24 authorized by the LME/MCOs and billed by the hospitals through the LME/MCOs.
25 LME/MCOs shall remit claims for payment to the Department within 15 working days after
26 receipt of a clean claim from the hospital and shall pay the hospital within 30 working days
27 after receipt of payment from the Department.

28 **SECTION 12F.2.(d)** Ineffective LME/MCO Management of Beds or Bed Days. –
29 If the Department determines that (i) an LME/MCO is not effectively managing the beds or bed
30 days for which it has responsibility, as evidenced by beds or bed days in the local hospital not
31 being utilized while demand for services at the State psychiatric hospitals has not reduced, or
32 (ii) the LME/MCO has failed to comply with the prompt payment provisions of subsection (c)
33 of this section, the Department may contract with another LME/MCO to manage the beds or
34 bed days or, notwithstanding any other provision of law to the contrary, may pay the hospital
35 directly.

36 **SECTION 12F.2.(e)** Reporting by LME/MCOs. – The Department shall establish
37 reporting requirements for LME/MCOs regarding the utilization of these beds or bed days.

38 **SECTION 12F.2.(f)** Reporting by Department. – By no later than March 1, 2014,
39 the Department shall report to the Joint Legislative Oversight Committee on Health and Human
40 Services and the Fiscal Research Division on all of the following:

- 41 (1) A uniform system for beds or bed days purchased during the fiscal year
42 ending June 30, 2013, from (i) funds appropriated in this act that are
43 designated for this purpose in subsection (a) of this section, (ii) existing
44 State appropriations, and (iii) local funds.
- 45 (2) Other Department initiatives funded by State appropriations to reduce State
46 psychiatric hospital use.

47 **SECTION 12F.2.(g)** Repeal of Hospital Utilization Pilot. – Sections 10.49(s1)
48 through 10.49(s5) of S.L. 2007-323 are repealed.

49 **FUNDS FOR THE NORTH CAROLINA CHILD TREATMENT PROGRAM**

1 **SECTION 12F.3.(a)** Recurring funds appropriated in this act to the Department of
2 Health and Human Services, Division of Mental Health, Developmental Disabilities, and
3 Substance Abuse Services, for the 2013-2015 fiscal biennium for the North Carolina Child
4 Treatment Program (NC CTP) shall be used for the following purposes:

- 5 (1) To provide clinical training and coaching to licensed Medicaid clinicians on
6 an array of evidence-based treatments and to provide a statewide platform to
7 assure accountability and outcomes.
- 8 (2) To maintain and manage a public roster of program graduates, linking
9 high-quality clinicians with children, families, and professionals.
- 10 (3) To partner with State, LME/MCO, and private sector leadership to bring
11 effective mental health treatment to children in juvenile justice and mental
12 health facilities.

13 **SECTION 12F.3.(b)** Nonrecurring funds appropriated in this act to the Department
14 of Health and Human Services, Division of Mental Health, Developmental Disabilities, and
15 Substance Abuse Services, for the 2013-2015 fiscal biennium for the North Carolina Child
16 Treatment Program (NC CTP) shall be used to pay for the cost of developing a secure database
17 for the NC CTP to track individual-level and aggregate-level data with interface capability to
18 work with existing networks within State agencies. The database shall be the property of the
19 State and shall be hosted on State infrastructure. Any data or product that is part of, or derived
20 from, this database shall be and will remain the sole property of the State.

21 **SINGLE STREAM FUNDING FOR MH/DD/SAS COMMUNITY SERVICES**

22 **SECTION 12F.4.(a)** For the purpose of mitigating cash flow problems that many
23 LME/MCOs experience at the beginning of each fiscal year relative to single stream funding,
24 the Department of Health and Human Services, Division of Mental Health, Developmental
25 Disabilities, and Substance Abuse Services, shall distribute not less than one-twelfth of each
26 LME/MCO's continuation allocation at the beginning of the fiscal year and subtract the amount
27 of that distribution from the LME/MCO's total reimbursements for the fiscal year.

28 **SECTION 12F.4.(b)** The Department of Health and Human Services, Division of
29 Mental Health, Developmental Disabilities, and Substance Abuse Services, shall periodically
30 review and, as deemed necessary by the Department, update the set of standardized covered
31 benefits developed and implemented by the Department pursuant to Section 10.11(b) of S.L.
32 2011-145 for recipients of LME/MCO community service funds; provided, however, the
33 Department shall not implement any updates that increase the overall cost of these standardized
34 covered benefits.
35

36 **MH/DD/SAS HEALTH CARE INFORMATION SYSTEM PROJECT**

37 **SECTION 12F.5.** The Department of Health and Human Services shall not take
38 any further action or expend any funds appropriated or available to the Department to develop
39 and implement the health care information system for State facilities operated by the Division
40 of Mental Health, Developmental Disabilities, and Substance Abuse Services. By no later than
41 March 1, 2014, the Department shall submit a detailed plan of this system to the Joint
42 Legislative Oversight Committee on Health and Human Services, the Joint Legislative
43 Oversight Committee on Information Technology, and the Fiscal Research Division. The plan
44 shall include an explanation of at least all of the following:
45

- 46 (1) The process the Department used to select the Veterans Health Information
47 Systems and Technology Architecture (VisTA), whether or not the selection
48 process was competitive, and if not, why it was not.
- 49 (2) Requirements for vendor services to support system implementation and
50 operation and the costs associated with this support.
- 51 (3) Governance structure for the system.

- 1 (4) Modules to be implemented in each facility and the reason for each.
- 2 (5) Assignment of responsibility for system maintenance, codes fixes,
- 3 application upgrades, and hardware upgrades.
- 4 (6) Whether the application and database will be implemented at each facility or
- 5 centrally managed by the Department and the reasons for the decision.
- 6 (7) Identification of additional hardware that will be required to support a
- 7 statewide rollout and the location at which the Department plans to host it.
- 8 (8) Assignment of responsibility for backup and recovery.
- 9 (9) If there will be redundant failover between facilities.
- 10 (10) Plans, time lines, and costs for implementing any other modules currently
- 11 offered by the United State Department of Veterans Affairs.
- 12 (11) A process for ensuring that the system software is upgraded whenever the
- 13 United States Department of Veterans Affairs upgrades its system.
- 14 (12) Technology constraints for VisTA and State-supported facilities and how
- 15 they will be addressed, by facility.
- 16 (13) Facility on-boarding plan for the State psychiatric hospitals and other State
- 17 facilities operated by the Division.
- 18 (14) Costs and sources of funding for planning, development, and
- 19 implementation at each facility and five years of costs and sources of
- 20 funding for operations and maintenance at each facility.
- 21 (15) Any other costs associated with system planning, development,
- 22 implementation, operation, and maintenance.
- 23 (16) Any issues associated with the planning, development, and implementation,
- 24 identified by the Department, the Office of the State Chief Information
- 25 Officer, the Office of Information Technology Services, or the Office of
- 26 State Budget and Management, with a solution for each identified issue.
- 27

28 LME/MCO FUNDS FOR SUBSTANCE ABUSE SERVICES

29 **SECTION 12F.6.(a)** LME/MCOs shall use a portion of their allocated funds for
30 substance abuse treatment services to support prevention and education activities at a level at
31 least equivalent to the 2012-2013 fiscal year.

32 **SECTION 12F.6.(b)** In providing treatment and services for adult offenders and
33 increasing the number of Treatment Accountability for Safer Communities (TASC) case
34 managers, local management entities shall consult with TASC to improve offender access to
35 substance abuse treatment and match evidence-based interventions to individual needs at each
36 stage of substance abuse treatment. Special emphasis should be placed on intermediate
37 punishment offenders, community punishment offenders at risk for revocation, and Department
38 of Correction releases who have completed substance abuse treatment while in custody.

39 The Department shall allocate up to three hundred thousand dollars (\$300,000) of
40 the funds appropriated in this act to the Department of Health and Human Services, Division of
41 Mental Health, Developmental Disabilities, and Substance Abuse Services, to provide
42 substance abuse services for adult offenders and to increase the number of TASC case
43 managers. These funds shall be allocated to TASC before funds are allocated to LMEs for
44 mental health services, substance abuse services, and crisis services.

46 CLOSE STATE-OPERATED ALCOHOL & DRUG ABUSE TREATMENT CENTERS

47 **SECTION 12F.7.(a)** The Department of Health and Human Services shall not
48 allow any new admissions or readmissions to State-operated alcohol and drug abuse treatment
49 centers (ADATCs) after June 30, 2013.

50 **SECTION 12F.7.(b)** By no later than September 30, 2013, the Department shall
51 permanently cease operations at all State-operated ADATCs and close these facilities.

1 **SECTION 12F.7.(c)** The sum of ten million dollars (\$10,000,000) appropriated in
2 this act for the 2013-2014 fiscal year and the sum of twenty million dollars (\$20,000,000)
3 appropriated in this act for the 2014-2015 fiscal year from the savings achieved as a result of
4 closing the State-operated ADACTs shall be used to increase the allocations provided to the
5 LME/MCOs. LME/MCOs shall use these funds to provide community-based and residential
6 alcohol and substance abuse treatment services. LME/MCOs shall not use these funds to
7 supplant other State, local, or block grant funds provided for this purpose.

8 9 **SEVERANCE & RELOCATION FOR AREA DIRECTORS**

10 **SECTION 12F.8.** G.S. 122C-121(a2) reads as rewritten:

11 "(a2) The area board shall not provide the director with any benefits that are not also
12 provided by the area board to all permanent employees of the area ~~program-program~~, except
13 that the area board may, in its discretion, offer severance benefits, relocation expenses, or both
14 to an applicant for the position of director as an incentive for the applicant to accept an offer of
15 employment. The director shall be reimbursed only for allowable employment-related expenses
16 at the same rate and in the same manner as other employees of the area program."
17

18 **SUBPART XII-G. DIVISION OF HEALTH SERVICE REGULATION**

19 20 **THREE-YEAR MORATORIUM ON SPECIAL CARE UNIT LICENSES**

21 **SECTION 12G.1.** For the period beginning July 1, 2013, and ending July 1, 2016,
22 the Department of Health and Human Services, Division of Health Service Regulation, shall
23 not issue any licenses for special care units as defined in G.S. 131D-4.6 and G.S. 131E-114.
24 This prohibition shall not restrict the Department from doing any of the following:

- 25 (1) Issuing a license to a facility that is acquiring an existing special care unit.
- 26 (2) Issuing a license for a special care unit in any area of the State upon a
27 determination by the Secretary of the Department of Health and Human
28 Services that increased access to this type of care is necessary in that area
29 during the three-year moratorium imposed by this section.
- 30 (3) Processing all completed applications for special care unit licenses received
31 by the Division of Health Service Regulation along with the applicable
32 license fee prior to June 1, 2013.

33 34 **ELIMINATE COMPREHENSIVE REPORT ON MEDICATION-RELATED ERRORS** 35 **IN NURSING HOMES**

36 **SECTION 12G.2.(a)** G.S. 131E-128.1(e) reads as rewritten:

37 "(e) Confidentiality. – The meetings or proceedings of the advisory committee, the
38 records and materials it produces, and the materials it considers, including analyses and reports
39 pertaining to medication-related error reporting under G.S. 131E-128.2 ~~and G.S. 131E-128.5~~
40 and pharmacy reports on drug defects and adverse reactions under G.S. 131E-128.4, shall be
41 confidential and not be considered public records within the meaning of G.S. 132-1. The
42 meetings or proceedings and records and materials also shall not be subject to discovery or
43 introduction into evidence in any civil action against a nursing home or a provider of
44 professional health services resulting from matters that are the subject of evaluation and review
45 by the committee. No person who was in attendance at a meeting of the committee shall testify
46 in any civil action as to any evidence or other matters produced or presented during the
47 meetings or proceedings of the committee or as to any findings, recommendations, evaluations,
48 opinions, or other actions of the committee or its members. Notwithstanding the foregoing:

- 49 (1) Information, documents, or records otherwise available, including any
50 deficiencies found in the course of an inspection conducted under
51 G.S. 131E-105, shall not be immune from discovery or use in a civil action

merely because they were presented during meetings or proceedings of the advisory committee. A member of the advisory committee or a person who testifies before the committee may testify in a civil action but cannot be asked about that person's testimony before the committee or any opinion formed as a result of the committee meetings or proceedings.

(2) Information that is confidential and not subject to discovery or use in civil actions under this subsection may be released to a professional standards review organization that performs any accreditation or certification function. Information released to the professional standards review organization shall be limited to information reasonably necessary and relevant to the standards review organization's determination to grant or continue accreditation or certification. Information released to the standards review organization retains its confidentiality and is not subject to discovery or use in any civil action as provided under this subsection. The standards review organization shall keep the information confidential subject to this subsection.

(3) Information that is confidential and not subject to discovery or use in civil actions under this subsection may be released to the Department of Health and Human Services pursuant to its investigative authority under G.S. 131E-105. Information released to the Department shall be limited to information reasonably necessary and relevant to the Department's investigation of compliance with Part 1 of Article 6 of this Chapter. Information released to the Department retains its confidentiality and is not subject to discovery or use in any civil action as provided in this subsection. The Department shall keep the information confidential subject to this subsection.

(4) Information that is confidential and is not subject to discovery or use in civil actions under this subsection may be released to an occupational licensing board having jurisdiction over the license of an individual involved in an incident that is under review or investigation by the advisory committee. Information released to the occupational licensing board shall be limited to information reasonably necessary and relevant to an investigation being conducted by the licensing board pertaining to the individual's involvement in the incident under review by the advisory committee. Information released to an occupational licensing board retains its confidentiality and is not subject to discovery or use in any civil action as provided in this subsection. The occupational licensing board shall keep the information confidential subject to this subsection."

SECTION 12G.2.(b) G.S. 131E-128.1(g) reads as rewritten:

"(g) Penalty. – The Department may take adverse action against the license of a nursing home upon a finding that the nursing home has failed to comply with this section, G.S. 131E-128.2, 131E-128.3, ~~131E-128.4, or 131E-128.5~~ or 131E-128.4."

SECTION 12G.2.(c) G.S. 131E-128.5 is repealed.

CERTIFICATE OF NEED EXEMPTION FOR REPLACEMENT EQUIPMENT & REPLACEMENT FACILITIES ON THE MAIN CAMPUS OF A CON-APPROVED HEALTH SERVICE FACILITY

SECTION 12G.3.(a) G.S. 131E-184 is amended by adding a new subsection to read:

"(f) The Department shall exempt from certificate of need review the purchase of any replacement equipment that exceeds the two million dollar (\$2,000,000) threshold set forth in G.S. 131E-176(22) and any capital expenditure that exceeds the two million dollar

1 (\$2,000,000) threshold set forth in G.S. 131E-176(16)b. if all of the following conditions are
2 met:

- 3 (1) For replacement equipment, if the replacement equipment is to be used on
4 the main campus of a licensed health service facility that has already
5 obtained certificate of need approval.
- 6 (2) For a capital expenditure, if the sole purpose of the capital expenditure is to
7 replace an existing health service facility on the main campus of a licensed
8 health service facility that has already obtained certificate of need approval
9 and the capital expenditure does not result in (i) a change in bed capacity as
10 defined in G.S. 131E-176(5) or (ii) the addition of a health service facility or
11 any other new institutional health service other than that allowed in
12 G.S. 131E-176(16)b.
- 13 (3) The licensed health service facility proposing to purchase the replacement
14 equipment or incur the capital expenditure shall provide prior written notice
15 to the Department, along with supporting documentation to demonstrate that
16 it meets the exemption criteria of this subsection."

17 **SECTION 12G.3.(b)** This section applies to replacement equipment purchased and
18 capital expenditures incurred on or after July 1, 2013.

19
20 **SUBPART XII-H. DIVISION OF MEDICAL ASSISTANCE (MEDICAID)**

21
22 **DETAILED MEDICAID REFORM PROPOSAL TO BE PREPARED BY**
23 **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

24 **SECTION 12H.1.(a)** The Department of Health and Human Services, Division of
25 Medical Assistance, (Department) shall create a detailed plan for, but not implement,
26 significant reforms to the State's Medicaid Program that shall accomplish the following:

- 27 (1) Create a predictable and sustainable Medicaid program for North Carolina
28 taxpayers.
- 29 (2) Increase administrative ease and efficiency for North Carolina Medicaid
30 providers.
- 31 (3) Provide care for the whole person by uniting physical and behavioral health
32 care.

33 **SECTION 12H.1.(b)** The Department shall submit its detailed proposal of how to
34 reform the State's Medicaid Program to the General Assembly. The report shall contain the
35 following:

- 36 (1) The details of the reform plan, including how the plan would accomplish the
37 goals set out in subsection (a) of this section.
- 38 (2) The Department's methodology for selecting the reform plan over
39 alternatives.
- 40 (3) Forecasts of the reform plan's potential to slow the growth of the costs of the
41 Medicaid Program, including the assumptions and methodology used for the
42 forecast, as well as an explanation of how the Department's forecast
43 methodology has been improved to produce more accurate forecasting than
44 in prior years.
- 45 (4) The reform plan's impact, as compared to the existing Medicaid Program, on
46 both providers and recipients in areas such as enrollment within the
47 Medicaid system, access to services, quality of care, and payment
48 methodologies, and any other areas of comparison to help the General
49 Assembly evaluate the reform plan.
- 50 (5) If regional demonstration projects, pilot projects, or similar projects will be
51 used to test a proposal, how the Department will ensure that the test

1 methodology is scientifically valid and consistent with social science
2 research methods.

3 (6) How financial risks will be allocated under the reform plan.

4 (7) The mechanisms through which the Department and any contractors under
5 the reform plan would be held accountable for the implementation and
6 performance of the plan.

7 (8) Short-term costs to implement the plan and expected long-term savings in
8 future years from slowing the growth of costs.

9 (9) A realistic time line for implementation.

10 (10) Draft Medicaid State Plan Amendments, Medicaid waivers, amendments to
11 State law, or other changes necessary to legally allow the Department to
12 implement its reform plan.

13 (11) Any other detailed information that would assist the General Assembly in
14 evaluating the strength of the reform plan and the plan's ability to
15 accomplish the goals set out in subsection (a) of this section.

16 **SECTION 12H.1.(c)** The Department is encouraged to and may submit draft
17 Medicaid State Plan amendments, draft waiver applications, or other documents to the federal
18 government to solicit feedback on the Department's proposal prior to reporting to the General
19 Assembly. The Department shall not, however, submit any documents to the federal
20 government to implement the reform plan without legislation authorizing the Department to
21 implement the Department's reform plan.

22 **SECTION 12H.1.(d)** The Department shall submit its reform plan to the General
23 Assembly no later than March 17, 2014, but is encouraged to submit its plan as early as it
24 responsibly can.

25
26 **CLARIFY STATE PLAN AMENDMENT PROCEDURES; REPEAL UNAUTHORIZED**
27 **STATE PLAN AMENDMENT**

28 **SECTION 12H.2.(a)** Part 6 of Article 2 of Chapter 108A of the General Statutes is
29 amended by adding a new section to read as follows:

30 **"§ 108A-54.1A. Amendments to Medicaid State Plan and Medicaid Waivers.**

31 (a) No provision in the Medicaid State Plan or in a Medicaid Waiver may expand or
32 otherwise alter the scope or purpose of the Medicaid program from that authorized by law
33 enacted by the General Assembly. For purposes of this section, the term "amendments to the
34 State Plan" includes State Plan amendments, Waivers, and Waiver amendments.

35 (b) The Department may submit amendments to the State Plan only as required under
36 any of the following circumstances:

37 (1) A law enacted by the General Assembly directs the Department to submit an
38 amendment to the State Plan.

39 (2) A law enacted by the General Assembly makes a change to the Medicaid
40 Program that requires approval by the federal government.

41 (3) A change in federal law, including regulatory law, requires an amendment to
42 the State Plan.

43 (4) A change made by the Department to the Medicaid Program requires an
44 amendment to the State Plan, if the change was within the authority granted
45 to the Department by State law.

46 (5) An amendment to the State Plan is required to ensure continued federal
47 financial participation.

48 (c) Amendments to the State Plan submitted to the federal government for approval
49 shall contain only those changes that are allowed by the authority for submitting an amendment
50 to the State Plan in subsection (b) of this section.

1 (d) No fewer than 10 days prior to submitting an amendment to the State Plan to the
2 federal government, the Department shall post the amendment on its Web site and notify the
3 members of the Joint Legislative Oversight Committee on Health and Human Services and the
4 Fiscal Research Division, that the amendment has been posted. This requirement shall not
5 apply to draft or proposed amendments submitted to the federal government for comments, but
6 not submitted for approval. If the authority for submitting the amendment to the State Plan is
7 pursuant to subdivision (3), (4), or (5) of subsection (b) of this section, then, prior to submitting
8 an amendment to the federal government, the Department shall submit to the General Assembly
9 members receiving notice under this subsection and to the Fiscal Research Division an
10 explanation of the amendment, the need for the amendment, and the federal time limits required
11 for implementation of the amendment.

12 (e) The Department shall submit an amendment to the State Plan to the federal
13 government by a date sufficient to provide the federal government adequate time to review and
14 approve the amendment so the amendment may be effective by the date required by the
15 directing authority in subsection (b) of this section."

16 **SECTION 12H.2.(b)** G.S. 108A-70.25 reads as rewritten:

17 **"§ 108A-70.25. State Plan for Health Insurance Program for Children.**

18 ~~The Department shall develop and submit a State Plan to implement "The Health Insurance~~
19 ~~Program for Children" authorized under this Part to the federal government as application for~~
20 ~~federal funds under Title XXI. The State Plan submitted under this Part shall be developed by~~
21 ~~the Department only as authorized by and in accordance with this Part. No provision in the~~
22 ~~State Plan submitted under this Part may expand or otherwise alter the scope or purpose of the~~
23 ~~Program from that authorized under this Part. The Department shall include in the State Plan~~
24 ~~submitted only those items required by this Part and required by the federal government to~~
25 ~~qualify for federal funds under Title XXI and necessary to secure the State's federal fund~~
26 ~~allotment for the applicable fiscal period. Except as otherwise provided in this section, the~~
27 ~~Department shall not amend the State Plan nor submit any amendments thereto to the federal~~
28 ~~government for review or approval without the specific approval of the General Assembly. In~~
29 ~~the event federal law requires that an amendment be made to the State Plan and further requires~~
30 ~~that the amendment be submitted or implemented within a time period when the General~~
31 ~~Assembly is not and will not be in session to approve the amendment, then the Department may~~
32 ~~submit the amendment to the federal government for review and approval without the approval~~
33 ~~of the General Assembly. Prior to submitting an amendment to the federal government without~~
34 ~~General Assembly approval as authorized in this section, the Department shall report the~~
35 ~~proposed amendment to the Joint Legislative Oversight Committee on Health and Human~~
36 ~~Services and to members of the Joint Appropriations Subcommittee on Health and Human~~
37 ~~Services. The report shall include an explanation of the amendment, the necessity therefor, and~~
38 ~~the federal time limits required for implementation of the amendment.~~

39 (a) The NC Health Choice program shall be administered and operated in accordance
40 with this Part and the NC Health Choice State Plan, as periodically amended by the Department
41 of Health and Human Services and approved by the federal government.

42 (b) The requirements in G.S. 108A-54.1A shall apply to NC Health Choice State Plan
43 amendments in the same manner in which they apply to Medicaid State Plan amendments."

44 **SECTION 12H.2.(c)** The Department of Health and Human Services shall take
45 any and all action necessary to remove from the Medicaid State Plan the amendment that
46 begins on Attachment 4.19-B, Section 5, Page 2, and pertains to supplemental payments that
47 increase reimbursement to the average commercial rate for certain eligible medical professional
48 providers.

49
50 **CODIFY GENERAL POLICIES**

51 **SECTION 12H.3.** G.S. 108A-54 reads as rewritten:

"§ 108A-54. Authorization of Medical Assistance Program.

(a) The Department is authorized to establish a Medicaid Program in accordance with Title XIX of the federal Social Security Act. The Department may adopt rules to implement the Program. The State is responsible for the nonfederal share of the costs of medical services provided under the Program. In addition, the State shall pay one hundred percent (100%) of the federal Medicare Part D clawback payments under the Medicare Modernization Act of 2004, P.L. 108-173, as amended. A county is responsible for the county's cost of administering the Program in that county.

...
(c) The Medicaid Program shall be administered and operated in accordance with this Part and the North Carolina Medicaid State Plan and Waivers, as periodically amended by the Department of Health and Human Services in accordance with G.S. 108A-54.1A and approved by the federal government.

(d) The Department shall not take any actions that the Department determines would jeopardize the State's qualification to receive federal funds through the Medicaid Program."

CODIFY MEDICAID AS SECONDARY PAYOR

SECTION 12H.4. G.S. 108A-55 is amended by adding a new subsection to read as follows:

"§ 108A-55. Payments.

...
(e) Medicaid is a secondary payor of claims. The Department shall apply Medicaid medical policy to recipients who have primary insurance other than Medicare, Medicare Advantage, and Medicaid. For recipients who have primary insurance other than Medicare, Medicare Advantage, or Medicaid, the Department shall pay an amount up to the actual coinsurance or deductible or both, in accordance with the State Plan, as approved by the Department of Health and Human Services. The Department may disregard application of this policy in cases where application of the policy would adversely affect patient care."

CODIFY COUNTIES SHARING IN FRAUD RECOVERY

SECTION 12H.5. Part 6 of Article 2 of Chapter 108A of the General Statutes is amended by adding a new section to read as follows:

"§ 108A-64.1. Incentives to counties to recover fraudulent Medicaid expenditures.

The Department of Health and Human Services, Division of Medical Assistance, shall provide incentives to counties that successfully recover fraudulently spent Medicaid funds by sharing State savings with counties responsible for the recovery of the fraudulently spent funds."

CODIFY CHANGES TO MEDICAL POLICY

SECTION 12H.6.(a) G.S. 108A-54.2 reads as rewritten:

"§ 108A-54.2. Procedures for changing medical policy.

(a) The Department shall adopt rules to develop, amend, and adopt medical coverage policy for Medicaid and NC Health Choice in accordance with this section.

(b) Medical coverage policy is defined as those policies, definitions, or guidelines utilized to evaluate, treat, or support the health or developmental conditions of a recipient so as to determine eligibility, authorization or continued authorization, medical necessity, course of treatment and supports, clinical outcomes, and clinical supports treatment practices for a covered procedure, product, or service. Medical coverage policy is subject to the following:

- (1) During the development of new medical coverage policy or amendment to existing medical coverage policy, the Department shall consult with and seek the advice of the Physician Advisory Group and other organizations the

1 Secretary deems appropriate. The Secretary shall also consult with and seek
2 the advice of officials of the professional societies or associations
3 representing providers who are affected by the new medical coverage policy
4 or amendments to existing medical coverage policy.

5 (2) At least 45 days prior to the adoption of new or amended medical coverage
6 policy, the Department shall:

- 7 a. Publish the proposed new or amended medical coverage policy on
8 the Department's Web site;
9 b. Notify all Medicaid and NC Health Choice providers of the
10 proposed, new, or amended policy; and
11 c. Upon request, provide persons copies of the proposed medical
12 coverage policy.

13 (3) During the 45-day period immediately following publication of the proposed
14 new or amended medical coverage policy, the Department shall accept oral
15 and written comments on the proposed new or amended policy.

16 (4) If, following the comment period, the proposed new or amended medical
17 coverage policy is modified, then the Department shall, at least 15 days prior
18 to its adoption:

- 19 a. Notify all Medicaid and NC Health Choice providers of the proposed
20 policy;
21 b. Upon request, provide persons notice of amendments to the proposed
22 policy; and
23 c. Accept additional oral or written comments during this 15-day
24 period.

25 (c) If the adoption of new or amended medical coverage policies is necessitated by an
26 act of the General Assembly or a change in federal law, then the 45- and 15-day time periods
27 specified in subsection (b) of this section shall instead be 30- and 10-day time periods.

28 (d) Unless directed to do so by the General Assembly, the Department shall not change
29 medical policy affecting the amount, sufficiency, duration, and scope of health care services
30 and who may provide services until the Division of Medical Assistance has prepared a
31 five-year fiscal analysis documenting the increased cost of the proposed change in medical
32 policy and submitted it for departmental review. Changes to medical policy affecting the
33 amount, sufficiency, duration, and scope of health care services and who may provide services
34 are subject to the following:

35 (1) If the fiscal impact indicated by the fiscal analysis for any proposed medical
36 policy change exceeds five hundred thousand dollars (\$500,000) in total
37 requirements for Medicaid or fifty thousand dollars (\$50,000) in total
38 requirements for NC Health Choice for a given fiscal year, then the
39 Department shall submit the proposed medical policy change to the fiscal
40 analysis to the Office of State Budget and Management and the Fiscal
41 Research Division. The Department shall not implement the proposed
42 medical policy change unless the source of State funding is identified and
43 approved by the Office of State Budget and Management.

44 (2) If the medical policy change meets the requirement thresholds specified in
45 subdivision (1) of this subsection but is required for compliance with federal
46 law, then the Department shall submit the proposed medical policy or policy
47 interpretation change with the five-year fiscal analysis to the Office of State
48 Budget and Management prior to implementing the change.

49 The Department shall annually report, by November 1 of each year, all medical policy changes
50 with total requirements of less than the amount specified in subdivision (1) of this subsection to

1 the Office of State Budget and Management and the Fiscal Research Division of the Legislative
2 Services Commission."

3 **SECTION 12H.6.(b)** G.S. 108A-54.3 is repealed.
4

5 **CODIFY PREEXISTING PROVIDER APPLICATION FEE**

6 **SECTION 12H.7.** G.S. 108C-9 is amended by adding a new subsection to read as
7 follows:

8 **"§ 108C-9. Provider enrollment criteria.**

9 ...

10 (e) The Department of Health and Human Services, Division of Medical Assistance,
11 shall charge an application fee of one hundred dollars (\$100.00), and the amount federally
12 required, to each provider enrolling in the Medicaid Program for the first time. The fee shall be
13 charged to all providers at recredentialing every three years."
14

15 **CODIFY ELECTRONIC TRANSACTION REQUIREMENTS FOR PROVIDERS**

16 **SECTION 12H.8.** Chapter 108C of the General Statutes is amended by adding a
17 new section to read as follows:

18 **"§ 108C-13. Electronic transactions.**

19 (a) Providers shall follow the Department's established procedures for securing
20 electronic payments, and the Department shall not provide routine provider payments by check.
21 Medicaid providers shall file claims electronically, except that nonelectronic claims submission
22 may be required when it is in the best interest of the Department.

23 (b) Providers shall submit Preadmission Screening and Annual Resident Reviews
24 (PASARR) through the Department's Web-based tool or through a vendor with interface
25 capability to submit data into the Web-based PASARR.

26 (c) Providers shall submit requests for prior authorizations electronically via Web site.
27 Providers shall access their authorizations via online portals rather than receiving hard copies
28 by mail. Providers shall receive copies of adverse decisions electronically, although recipients
29 shall receive adverse decisions via certified mail.

30 (d) Providers shall submit their provider enrollment applications online. The
31 Department shall accept electronic signatures rather than require receipt of signed hard copies."
32

33 **CODIFY RULE MAKING, TEMPORARY AND EXCEPTIONS**

34 **SECTION 12H.9.(a)** G.S. 108A-54(b) is recodified as G.S. 108A-54.1B(a).

35 **SECTION 12H.9.(b)** G.S. 108A-54.1B, as created by subsection (a) of this
36 section, reads as rewritten:

37 **"§ 108A-54.1B. Adoption of rules; exceptions.**

38 (a) The Department is expressly authorized to adopt temporary and permanent rules to
39 implement or define the federal laws and regulations, the North Carolina State Plan of Medical
40 Assistance, and the North Carolina State Plan of the Health Insurance Program for Children,
41 the terms and conditions of eligibility for applicants and recipients of the Medical Assistance
42 Program and the Health Insurance Program for Children, audits and program integrity, the
43 services, goods, supplies, or merchandise made available to recipients of the Medical
44 Assistance Program and the Health Insurance Program for Children, and reimbursement for the
45 services, goods, supplies, or merchandise made available to recipients of the Medical
46 Assistance Program and the Health Insurance Program for Children.

47 (b) Prior to filing a temporary rule authorized under G.S. 150B-21.1(a)(17) with the
48 Rules Review Commission and the Office of Administrative Hearings, the Department shall
49 consult with the Office of State Budget and Management on the possible fiscal impact of the
50 temporary rule and its effect on State appropriations and local governments.

1 (c) Rule-making authority granted under this section for particular circumstances or
 2 programs is in addition to any other rule-making authority granted to the Department under
 3 Chapter 150B of the General Statutes.

4 (d) State Plans, State Plan Amendments, and Waivers approved by the Centers for
 5 Medicare and Medicaid Services (CMS) for the North Carolina Medicaid Program and the NC
 6 Health Choice program shall have the force and effect of rules adopted pursuant to Article 2A
 7 of Chapter 150B of the General Statutes."

8 **SECTION 12H.9.(c)** G.S. 150B-1(d) is amended by adding a new subdivision to
 9 read as follows:

10 "(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the
 11 following:

12 ...
 13 (22) The Department of Health and Human Services with respect to the content
 14 of State Plans, State Plan Amendments, and Waivers approved by the
 15 Centers for Medicare and Medicaid Services (CMS) for the North Carolina
 16 Medicaid Program and the NC Health Choice program."

17 **SECTION 12H.9.(d)** G.S. 150B-21.1(a) is amended by adding a new
 18 subdivision to read as follows:

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

22 ...
 23 (17) To maximize receipt of federal funds for the Medicaid or NC Health Choice
 24 programs within existing State appropriations, to reduce Medicaid or NC
 25 Health Choice expenditures, and to reduce Medicaid and NC Health Choice
 26 fraud and abuse."

27
 28 **CODIFY ELIGIBILITY**

29 **SECTION 12H.10.(a)** Part 6 of Article 2 of Chapter 108A of the General Statutes
 30 is amended by adding a new section to read as follows:

31 **"§ 108A-54.6. Eligibility.**

32 (a) Families and children who are categorically and medically needy are eligible for
 33 Medicaid, subject to the following annual income levels:

<u>Family</u>	<u>Categorically</u>	<u>Medically</u>
<u>Size</u>	<u>Needy</u>	<u>Needy</u>
<u>Income Level</u>	<u>Income Level</u>	<u>Income Level</u>
<u>1</u>	<u>\$ 4,344</u>	<u>\$ 2,900</u>
<u>2</u>	<u>5,664</u>	<u>3,800</u>
<u>3</u>	<u>6,528</u>	<u>4,400</u>
<u>4</u>	<u>7,128</u>	<u>4,800</u>
<u>5</u>	<u>7,776</u>	<u>5,200</u>
<u>6</u>	<u>8,376</u>	<u>5,600</u>
<u>7</u>	<u>8,952</u>	<u>6,000</u>
<u>8</u>	<u>9,256</u>	<u>6,300</u>

45 The Department of Health and Human Services shall provide Medicaid coverage to 19- and
 46 20-year-olds under this subsection in accordance with federal rules and regulations. Medicaid
 47 enrollment of categorically needy families with children shall be continuous for one year
 48 without regard to changes in income or assets.

49 (b) Persons eligible for the following programs shall be eligible for Medicaid:

- 50 (1) Work First Family Assistance.
 51 (2) Supplemental Social Security Income (SSI).

1 (3) State/County Special Assistance.

2 (c) For the following Medicaid eligibility classifications for which the federal poverty
3 guidelines are used as income limits for eligibility determinations, the income limits will be
4 updated each April 1 immediately following publication of federal poverty guidelines. The
5 Department of Health and Human Services, Division of Medical Assistance, shall provide
6 Medicaid coverage to the following:

7 (1) All elderly, blind, and disabled people who have incomes equal to or less
8 than one hundred percent (100%) of the federal poverty guidelines.

9 (2) Pregnant women with incomes equal to or less than one hundred eighty-five
10 percent (185%) of the federal poverty guidelines and without regard to
11 resources. Services to pregnant women eligible under this subsection
12 continue throughout the pregnancy but include only those related to
13 pregnancy and to those other conditions determined by the Department as
14 conditions that may complicate pregnancy.

15 (3) Infants under the age of one with family incomes equal to or less than two
16 hundred percent (200%) of the federal poverty guidelines and without regard
17 to resources.

18 (4) Children aged one through five with family incomes equal to or less than
19 two hundred percent (200%) of the federal poverty guidelines and without
20 regard to resources.

21 (5) Children aged six through 18 with family incomes equal to or less than one
22 hundred percent (100%) of the federal poverty guidelines and without regard
23 to resources.

24 (6) Workers with disabilities described in G.S. 108A-66A with unearned income
25 equal to or less than one hundred fifty percent (150%) of the federal poverty
26 guidelines.

27 The Department of Health and Human Services, Division of Medical Assistance, shall also
28 provide family planning services to men and women of childbearing age with family incomes
29 equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines
30 and without regard to resources.

31 (d) The Department of Health and Human Services, Division of Medical Assistance,
32 shall provide Medicaid coverage to adoptive children with special or rehabilitative needs,
33 regardless of the adoptive family's income.

34 (e) The Department of Health and Human Services, Division of Medical Assistance,
35 shall provide Medicaid coverage to "independent foster care adolescents," ages 18, 19, and 20,
36 as defined in section 1905(w)(1) of the Social Security Act (42 U.S.C. § 1396d(w)(1)), without
37 regard to the adolescent's assets, resources, or income levels.

38 (f) The Department of Health and Human Services, Division of Medical Assistance,
39 shall provide Medicaid coverage to women who need treatment for breast or cervical cancer
40 and who are defined in 42 U.S.C. § 1396a(a)(10)(A)(ii)(XVIII)."

41 **SECTION 12H.10.(b)** G.S. 108A-54.1 is recodified as G.S. 108A-66.1.
42 G.S. 108A-66.1(a), as recodified by this subsection, reads as rewritten:

43 "(a) Title. – This ~~act~~ section may be cited as the Health Coverage for Workers With
44 Disabilities Act. The Department shall implement a Medicaid buy-in eligibility category as
45 permitted under P.L. 106-170, Ticket to Work and Work Incentives Improvement Act of 1999.
46 The Department shall establish rules, policies, and procedures to implement this act in
47 accordance with this section."

48 **SECTION 12H.10.(c)** Effective January 1, 2014, G.S. 108A-54.6(c)(5), as enacted
49 by this section, reads as rewritten:

"(5) Children aged six through 18 with family incomes equal to or less than ~~one hundred percent (100%)~~ one hundred thirty-three percent (133%) of the federal poverty guidelines and without regard to resources."

SECTION 12H.10.(d) Effective January 1, 2014, G.S. 108A-70.21(a)(1)d. reads as rewritten:

"§ 108A-70.21. Program eligibility; benefits; enrollment fee and other cost-sharing; coverage from private plans; purchase of extended coverage.

(a) Eligibility. – The Department may enroll eligible children based on availability of funds. Following are eligibility and other requirements for participation in the Program:

(1) Children must:

- a. Be between the ages of 6 through 18;
- b. Be ineligible for Medicaid, Medicare, or other federal government-sponsored health insurance;
- c. Be uninsured;
- d. Be in a family whose family income is above ~~one hundred percent (100%)~~ one hundred thirty-three percent (133%) through two hundred percent (200%) of the federal poverty level;
- e. Be a resident of this State and eligible under federal law; and
- f. Have paid the Program enrollment fee required under this Part.

...."

NC HEALTH CHOICE TEMPORARY EXTENDED COVERAGE

SECTION 12H.11. An enrollee in the NC Health Choice program who loses eligibility due to reaching the age of 19 on or after June 1, 2013, may purchase at full premium cost continued coverage under the NC Health Choice program until the end of the month following the date on which the Secretary of the United States Department of Health and Human Services determines that the North Carolina federally facilitated Health Benefits Exchange is fully operational. The benefits, co-payments, and other conditions of enrollment under the NC Health Choice program applicable to extended coverage purchased in accordance with this section shall be the same as those applicable to an NC Health Choice enrollee who has not yet reached the age of 19.

INSURANCE PREMIUMS FOR PREGNANT WOMEN

SECTION 12H.12.(a) G.S. 108A-54.6(c)(2), as enacted by Section 12H.10 of this act, reads as rewritten:

"(2) Pregnant women with incomes equal to or less than ~~one hundred eighty five percent (185%)~~ one hundred thirty-three percent (133%) of the federal poverty guidelines and without regard to resources. Services to pregnant women eligible under this subsection continue throughout the pregnancy but include only those related to pregnancy and to those other conditions determined by the Department as conditions that may complicate pregnancy."

SECTION 12H.12.(b) Article 2 of Chapter 108A of the General Statutes is amended by adding a new Part to read as follows:

"Part 10. Insurance Premiums for Pregnant Women.

"§ 108A-70.35. Definitions.

In this Part, the following definitions apply:

- (1) Federal poverty guidelines. – The federal poverty guidelines established by the United States Department of Health and Human Services, as periodically revised.
- (2) Household income. – As defined under 26 U.S.C. § 5000A(c)(4)(B).

- 1 (3) Medicaid. – The State Medical Assistance Program established under Part 6
2 of this Article.
3 (4) Minimum essential coverage. – As defined under 26 U.S.C. § 5000A(f)(1).
4 (5) Program. – The Insurance Premiums for Pregnant Women program
5 established in this Part.
6 (6) Uninsured. – Without minimum essential coverage.

7 **"§ 108A-70.36. Purpose; no entitlement.**

8 The purpose of this Part is to help uninsured, lower-income pregnant women who are
9 residents of this State acquire health insurance through premium assistance. Premium
10 assistance shall be paid from State funds appropriated. Nothing in this Part shall be construed
11 as obligating the General Assembly to appropriate funds for this purpose or as entitling any
12 person to receive premium assistance under this Part.

13 **"§ 108A-70.37. Program established.**

14 The Insurance Premiums for Pregnant Women program is established. The program shall
15 be administered by the Department of Health and Human Services in accordance with this Part.

16 **"§ 108A-70.38. Program eligibility.**

17 In order to participate in the program, an individual must meet all of the following
18 requirements:

- 19 (1) Be a resident of the State.
20 (2) Be lawfully present in the United States.
21 (3) Not be on active punishment, as that term is defined under
22 G.S. 15A-1340.11.
23 (4) Have a medically verified pregnancy.
24 (5) Not have minimum essential coverage, excluding coverage purchased using
25 funding from the program.
26 (6) Have household income of no more than one hundred eighty-five percent
27 (185%) of the federal poverty guidelines.
28 (7) Qualify for a premium assistance credit under 26 U.S.C. § 36B.

29 **"§ 108A-70.39. Program benefits.**

30 (a) An individual who qualifies under G.S. 108A-70.38 shall be eligible for premium
31 assistance from the State to help the individual purchase coverage under a health benefit plan
32 during the period of the pregnancy through the end of the second calendar month following the
33 pregnancy.

34 (b) The amount of the premium assistance shall be the amount necessary to purchase
35 insurance coverage up to the amount provided in 26 U.S.C. § 36B(b)(2)(B)(ii).

36 (c) The Department of Health and Human Services shall remit the amount of the
37 premium assistance to a qualified individual's insurer on behalf of the qualified individual.

38 (d) A qualified individual who participates in the program shall remain responsible for
39 the other costs of the health benefit plan in which they are enrolled, including any
40 cost-sharing."

41 **SECTION 12H.12.(c)** This section becomes effective January 1, 2014, and applies
42 to pregnancies medically verified on or after that date.

43
44 **MODIFICATIONS TO EXISTING COVERED SERVICES AND PAYMENT FOR**
45 **SERVICES**

46 **SECTION 12H.13.(a)** Except as otherwise provided in this act, the allowable State
47 plan services, co-pays, reimbursement rates, and fees shall remain the same as those effective
48 June 30, 2013. Except as otherwise provided in this act and to the extent allowable under
49 federal law, the adjustments made in this section apply to both the Medicaid Program and the
50 NC Health Choice program.

1 **SECTION 12H.13.(b)** Effective July 1, 2013, any rates that contain an inflationary
2 or increase factor shall not increase above the rate in effect on June 30, 2013, unless the rate is
3 otherwise increased by the General Assembly. Hospital outpatient services' percentage of cost
4 shall be adjusted to compensate for expected inflation that hospitals would be eligible for, and
5 cost settlement will only be up to that percentage. Nursing direct care services shall not receive
6 case mix index increases after June 30, 2013, until reinstated. The following rates are excluded
7 from this subsection: Federally Qualified Health Centers, Rural Health Centers, State-Operated
8 services, Hospice, Part B and D Premiums, third-party and HMO premiums, drugs, and MCO
9 capitation payments.

10 **SECTION 12H.13.(c)** Effective November 1, 2013, nominal co-pays are increased
11 to the maximum amount allowed by the Centers for Medicare and Medicaid Services (CMS).
12 The Department of Health and Human Services, Division of Medical Assistance, shall monitor
13 changes to federal law and increase the nominal co-pays whenever allowed under federal law.

14 **SECTION 12H.13.(d)** Effective January 1, 2014, the following changes are made
15 to allowable State plan services:

- 16 (1) Of the 22 visits allowed per recipient per fiscal year for professional services
17 provided by physicians, nurse practitioners, nurse midwives, physician
18 assistants, clinics, and health departments, prior authorization is required for
19 visits in excess of 10 within a year. This limitation and prior authorization
20 requirement does not apply to chronic conditions.
- 21 (2) Adult private duty nursing (PDN) is limited to four hundred thirty-two
22 dollars (\$432.00) per day.
- 23 (3) Adult rehabilitation home visits for set-up and training are limited to three
24 within a 12-month period.
- 25 (4) Prior authorization is required for all mental health drugs. A 72-hour
26 emergency supply may be provided if a beneficiary is waiting for
27 acknowledgment of the prior authorization request.

28 **SECTION 12H.13.(e)** Effective January 1, 2014, the percentage of allowable costs
29 for hospital outpatients is reduced from eighty percent (80%) to seventy percent (70%).

30 **SECTION 12H.13.(f)** Effective January 1, 2014, nonemergency services provided
31 in an emergency room shall be reimbursed based on a single fee. The Department of Health and
32 Human Services, Division of Medical Assistance, shall establish such a fee. This fee may not
33 be cost-settled.

34 **SECTION 12H.13.(g)** Effective January 1, 2014, the following changes are made
35 to drug reimbursements:

- 36 (1) Reimbursement rates for prescribed drugs are based on an invoice cost that
37 will be established through quarterly surveys to determine the actual cost of
38 drugs to pharmacies. The Department of Health and Human Services,
39 Division of Medical Assistance, shall conduct such quarterly surveys.
- 40 (2) Dispensing fees are to be increased to an average payment of nine dollars
41 and eighty-seven cents (\$9.87) for all drugs, with the incentive differential
42 for dispensing generic and preferred drugs remaining at two dollars (\$2.00).

44 **ADDITIONAL PERSONAL CARE SERVICES FOR QUALIFIED INDIVIDUALS**

45 **SECTION 12H.14.(a)** Section 10.9F(c) of S.L. 2012-142, as amended by Section
46 70 of S.L. 2012-194, reads as rewritten:

47 **"SECTION 10.9F.(c)** A Medicaid recipient who meets each of the following criteria is
48 eligible for up to 80 hours of personal care services:

- 49 (1) The recipient has a medical condition, disability, or cognitive impairment
50 and demonstrates unmet needs for, at a minimum, (i) three of the five
51 qualifying activities of daily living (ADLs) with limited hands-on assistance;

- 1 (ii) two ADLs, one of which requires extensive assistance; or (iii) two
2 ADLs, one of which requires assistance at the full dependence level.
- 3 (2) The recipient (i) resides in a private living arrangement, a residential facility
4 licensed by the State of North Carolina as an adult care home, or a
5 combination home as defined in G.S. 131E-101(1a); or (ii) resides in a group
6 home licensed under Chapter 122C or the General Statutes and under
7 10A NCAC 27G .5601 as a supervised living facility for two or more adults
8 whose primary diagnosis is mental illness, a developmental disability, or
9 substance abuse dependency, and is eligible to receive personal care services
10 under the Medicaid State Plan.

11 The five qualifying ADLs are eating, dressing, bathing, toileting, and mobility. For
12 Medicaid recipients meeting the criteria above, ~~Personal~~ personal care services shall be
13 available for up to 80 hours per month in accordance with an assessment conducted under
14 subsection (d) of this section and a plan of care developed by the service provider and approved
15 by the Department of Health and Human Services, Division of Medical Assistance, or its
16 designee.

- 17 (3) A Medicaid recipient who meets the eligibility criteria provided in
18 subdivisions (1) and (2) of this subsection and all of the criteria provided
19 below is eligible for up to 50 additional hours of Medicaid Personal Care
20 Services per month for a total of up to 130 hours per month in accordance
21 with an assessment and a plan of care.

- 22 a. The recipient requires an increased level of supervision.
23 b. The recipient requires caregivers with training or experience in
24 caring for individuals who have a degenerative disease characterized
25 by irreversible memory dysfunction that attacks the brain and results
26 in impaired memory, thinking, and behavior including gradual
27 memory loss, impaired judgment, disorientation, personality change,
28 difficulty in learning, and the loss of language skills.
29 c. Regardless of setting, the recipient requires a physical environment
30 that includes modifications and safety measures to safeguard the
31 recipient because of the recipient's gradual memory loss, impaired
32 judgment, disorientation, personality change, difficulty in learning,
33 and the loss of language skills.
34 d. The recipient exhibits safety concerns related to inappropriate
35 wandering, ingestion, aggressive behavior, and an increased
36 incidence of falls.

37 Physician attestation. – A recipient must have a physician's attestation that
38 the recipient meets each of the criteria in sub-subdivisions a. through d. of
39 subdivision (3) of this subsection. A recipient is not required to have a new
40 attestation if he or she is identified by the Department of Health and Human
41 Services, Division of Medical Assistance, as having on record a physician's
42 attestation that meets the requirements of this subdivision. A recipient is
43 required to have a new attestation if one cannot be identified by the Division
44 of Medical Assistance or if the one identified does not meet the requirements
45 of this subdivision.

46 Independent assessment. – Based on the physician's attestation, the
47 Medicaid recipient must receive an independent assessment conducted by a
48 trained professional who is qualified to assess and has experience assessing
49 individuals with the needs for additional safeguards identified by this
50 subdivision. The independent assessment shall be conducted in accordance
51 with subsection (d) of this section and shall determine the number of hours

1 of personal care services needed by the individual. In response to the
2 assessment, a plan of care shall be developed by the service provider and
3 approved by the Department of Health and Human Services, Division of
4 Medical Assistance, or its designee.

5 Personal care services shall not include nonmedical transportation; financial management;
6 non-hands-on assistance such as cueing, prompting, guiding, coaching, or babysitting; and
7 household chores not directly related to the qualifying ADLs."

8 **SECTION 12H.14.(b)** The Department shall reduce the rate for personal care
9 services in order to fund the additional service hours authorized under this section within the
10 budgeted amount of funds for personal care services.

11 **SECTION 12H.14.(c)** On or before August 1, 2013, and on or before November 1,
12 2013, the Department of Health and Human Services shall report on the implementation of this
13 section to the Joint Legislative Oversight Committee on Health and Human Services.
14

15 **MODIFY MEDICAID SUBROGATION STATUTE IN RESPONSE TO WOS V. E.M.A.**

16 **SECTION 12H.15.(a)** G.S. 108A-57 reads as rewritten:

17 **"§ 108A-57. Subrogation rights; withholding of information a misdemeanor.**

18 (a) Notwithstanding any other provisions of the law, to the extent of payments under
19 this Part, ~~the State, or the county providing medical assistance benefits, State~~ shall be
20 subrogated to all rights of recovery, contractual or otherwise, of the beneficiary of this
21 assistance, or of the beneficiary's personal representative, heirs, or the administrator or executor
22 of the estate, against any person. ~~The county attorney, or an attorney retained by the county or~~
23 ~~the State or both, or an attorney retained by the beneficiary of the assistance if this attorney has~~
24 ~~actual notice of payments made under this Part shall enforce this section. A personal injury or~~
25 wrongful death claim brought by a medical assistance beneficiary against a third party shall
26 include a claim for all medical assistance payments for health care items or services furnished
27 to the medical assistance beneficiary as a result of the injury, hereinafter referred to as the
28 "Medicaid claim." Any personal injury or wrongful death claim brought by a medical
29 assistance beneficiary against a third party that does not state the Medicaid claim shall be
30 deemed to include the Medicaid claim.

31 (a1) If the amount of the Medicaid claim does not exceed one-third of the medical
32 assistance beneficiary's gross recovery, it is presumed that the gross recovery includes
33 compensation for the full amount of the Medicaid claim. If the amount of the Medicaid claim
34 exceeds one-third of the medical assistance beneficiary's gross recovery, it is presumed that
35 one-third of the gross recovery represents compensation for the Medicaid claim.

36 (a2) A medical assistance beneficiary may dispute the presumptions established in
37 subsection (a1) of this section by applying to the court in which the medical assistance
38 beneficiary's claim against the third party is pending, or if there is none, then to a court of
39 competent jurisdiction, for a determination of the portion of the beneficiary's gross recovery
40 that represents compensation for the Medicaid claim. An application under this subsection shall
41 be filed with the court and served on the Department pursuant to the Rules of Civil Procedure
42 no later than 30 days after the date that the settlement agreement is executed by all parties and,
43 if required, approved by the court, or in cases in which judgment has been entered, no later than
44 30 days after the date of entry of judgment. The court shall hold an evidentiary hearing no
45 sooner than 30 days after the date the action was filed. All of the following shall apply to the
46 court's determination under this subsection:

47 (1) The medical assistance beneficiary has the burden of proving by clear and
48 convincing evidence that the portion of the beneficiary's gross recovery that
49 represents compensation for the Medicaid claim is less than the portion
50 presumed under subsection (a1) of this section.

1 (2) The presumption under subsection (a1) of this section is not rebutted solely
2 by the fact that the medical assistance beneficiary was not able to recover the
3 full amount of all claims.

4 (3) The court may consider any factors the court deems just and reasonable in
5 determining the portion of the recovery that represents compensation for the
6 Medicaid claim.

7 (4) The court may determine based upon a preponderance of the evidence that
8 the portion of the recovery that represents compensation for the Medicaid
9 claim is greater than the portion presumed under subsection (a1) of this
10 section.

11 (a3) AnyWithin 30 days of receipt of the proceeds of a settlement or judgment related to
12 a claim described in subsection (a) of this section, the medical assistance beneficiary or any
13 attorney retained by the beneficiary shall notify the Department of the receipt of the proceeds.
14 The medical assistance beneficiary or any attorney retained by the beneficiary of the assistance
15 shall, out of the proceeds obtained by or on behalf of the beneficiary by settlement with,
16 judgment against, or otherwise from a third party by reason of injury or death, distribute to the
17 Department the amount of assistance paid by the Department on behalf of or to the beneficiary,
18 as prorated with the claims of all others having medical subrogation rights or medical liens
19 against the amount received or recovered, but the amount paid to the Department shall not
20 exceed ~~one third of the gross amount obtained or recovered~~ the portion presumptively
21 determined under subsection (a1) of this section or the portion judicially determined under
22 subsection (a2) of this section. Unless an action has been commenced pursuant to subsection
23 (a2) of this section, the amount shall be paid to the Department within 30 days of the
24 beneficiary's receipt of the proceeds.

25 (a4) The United States and the State of North Carolina shall be entitled to shares in each
26 net recovery by the Department under this section. Their shares shall be promptly paid under
27 this section and their proportionate parts of such sum shall be determined in accordance with
28 the matching formulas in use during the period for which assistance was paid to the recipient.

29 (b) It is a Class 1 misdemeanor for any person seeking or having obtained assistance
30 under this Part for himself or another to willfully fail to disclose to the county department of
31 social services or its attorney the identity of any person or organization against whom the
32 recipient of assistance has a right of recovery, contractual or otherwise.

33 (c) This section applies to the administration of and claims payments made by the
34 Department of Health and Human Services under the NC Health Choice Program established
35 under Part 8 of this Article.

36 (d) As required to ensure compliance with this section, the Department may apply to the
37 court in which the medical assistance beneficiary's claim against the third party is pending, or if
38 there is none, then to a court of competent jurisdiction for enforcement of this section."

39 **SECTION 12H.15.(b)** This section is effective when it becomes law and applies to
40 claims brought by a medical assistance beneficiary against a third party in which either a
41 settlement agreement is executed by all parties or a judgment is entered against the third party
42 on or after the effective date of this section. For claims in which the Medicaid claim has not
43 been satisfied and as to which, prior to the effective date of this section, either (i) a settlement
44 agreement has been executed by all parties or (ii) judgment has been entered against the third
45 party, the medical assistance beneficiary shall have 90 days from the effective date of this
46 section within which to apply to the court pursuant to G.S. 108A-57(c).

47 **ADMINISTRATIVE HEARINGS FUNDING AND PROCEDURE MODIFICATION**

48 **SECTION 12H.16.(a)** The Department of Health and Human Services
49 (Department) shall transfer the sum of one million dollars (\$1,000,000) for the 2013-2014
50 fiscal year, and the sum of one million dollars (\$1,000,000) for the 2014-2015 fiscal year, to the
51

1 Office of Administrative Hearings (OAH). These funds shall be allocated by the OAH for
2 mediation services provided for Medicaid applicant and recipient appeals and to contract for
3 other services necessary to conduct the appeals process. OAH shall continue the Memorandum
4 of Agreement (MOA) with the Department for mediation services provided for Medicaid
5 recipient appeals and contracted services necessary to conduct the appeals process. The MOA
6 will facilitate the Department's ability to draw down federal Medicaid funds to support this
7 administrative function. Upon receipt of invoices from OAH for covered services rendered in
8 accordance with the MOA, the Department shall transfer the federal share of Medicaid funds
9 drawn down for this purpose.

10 **SECTION 12H.16.(b)** G.S. 108C-12(d) is repealed.

11 **SECTION 12H.16.(c)** G.S. 108C-5 reads as rewritten:

12 **"§ 108C-5. Payment suspension and audits utilizing extrapolation.**

13 (a) The Department may suspend payments to a provider in accordance with the
14 requirements and procedures set forth in 42 C.F.R. § 455.23.

15 (b) In addition to the procedures for suspending payment set forth at 42 C.F.R. §
16 455.23, the Department may also suspend payment to any provider that (i) owes a final
17 overpayment, assessment, or fine to the Department and has not entered into an approved
18 payment plan with the Department or (ii) has had its participation in the Medicaid or Health
19 Choice programs suspended or terminated by the Department. For purposes of this section, a
20 suspension or termination of participation does not become final until all administrative appeal
21 rights have been exhausted and shall not include any agency decision that is being contested at
22 the Department or the Office of Administrative Hearings or in Superior Court provided that the
23 Superior Court has entered a stay pursuant to the provisions of G.S. 150B-48.

24 (b1) The Department shall withhold payment to any North Carolina Medicaid provider
25 or Health Choice provider for whom the Division of Medical Assistance, or its vendor, has
26 identified an overpayment in a written notice to the provider. Withholding shall begin on the
27 31st day after the day the notice of overpayment is mailed and shall continue during the
28 pendency of any appeal until the overpayment becomes a final overpayment. For purposes of
29 this subsection, withholding during any month shall not exceed the amount of any interest
30 required by law plus nine percent (9%) of the sum of the total overpayment amount identified
31 in the notice of overpayment and any penalty required by law. If the Department subsequently
32 reduces the identified overpayment in writing, withholding during any subsequent month shall
33 not exceed the amount of any interest required by law plus nine percent (9%) of the sum of the
34 total reduced identified overpayment and any penalty required by law. Total withholdings shall
35 not exceed the total amount of the overpayment plus any penalty and interest charges required
36 by law. If the total amount withheld exceeds the final overpayment plus interest and penalty
37 required by law, the Department shall pay the provider the amount withheld in excess of the
38 final overpayment plus penalty and interest. Upon request by the provider and for good cause
39 shown, the Department is authorized to approve a payment plan for a provider to pay an
40 overpayment, pursuant to subsection (g) of this section. Absent a showing of good cause for
41 repayment to be made over a period of more than one year, the Department shall take all
42 necessary and appropriate action to recover overpayments within 365 days of the date the
43 notice of overpayment was mailed to the provider.

44 (c) For providers who owe a final overpayment, assessment, or fine to the Department,
45 the payment suspension shall begin the thirty-first day after the overpayment, assessment, or
46 fine becomes final. The payment suspension shall not exceed the amount owed to the
47 Department, including any applicable penalty and interest charges.

48 (d) Providers whose participation in the Medicaid or Health Choice programs has been
49 suspended or terminated shall have all payments suspended beginning on the thirty-first day
50 after the suspension or termination becomes final.

1 (e) The Department shall consult with the N.C. Departments of Treasury and Revenue
2 and other State departments and agencies to determine if a provider owes debts or fines to the
3 State. The Department may collect any of these debts owed to the State subsequent to
4 consideration by the Department of the financial impact upon the provider and the impact upon
5 access to the services provided by the provider.

6 (f) When issuing payment suspensions and withholdings in accordance with this
7 Chapter, the Department may suspend or withhold payment to all providers which share the
8 same IRS Employee Identification Number or corporate parent as the provider or provider site
9 location which owes the final overpayment, overpayment, assessment, or fine. The Department
10 shall give 30 days advance written notice to all providers which share the same IRS Employee
11 Identification Number or corporate parent as the provider or provider site location of the
12 intention of the Department to implement a payment ~~suspension~~ suspension or withholding.

13 (g) The Department is authorized to approve a payment plan for a provider to pay a
14 final overpayment, overpayment, assessment, or fine including interest and any penalty. The
15 payment plan can include a term of up to 24 months. The Department shall establish in rule the
16 conditions of such provider payment plans. Nothing in this subsection shall prevent the
17 provider and the Department from mutually agreeing to modifications of a payment plan.

18 (h) All payments suspended or withheld in accordance with this Chapter shall be
19 applied toward any final overpayment, assessment, or fine owed to the Department.

20"

21 **SECTION 12H.16.(d)** Chapter 108C of the General Statutes is amended by adding
22 a new section to read as follows:

23 **"§ 108C-5.1. Post-payment review and recovery audit contracts.**

24 The Department shall not pay contingent fees pursuant to any contract with an entity
25 conducting Medicaid post-payment reviews or Recovery Audit Contractor (RAC) audits before
26 all appeal rights have been exhausted. Any contingent fee for Medicaid post-payment reviews
27 or RAC audits shall be calculated as a percentage of the amount of the final overpayment, as
28 defined in G.S. 108C-2(5). The State share of the contingent fee paid for Medicaid
29 post-payment reviews or RAC audits shall not exceed the State share of the amount actually
30 recovered by the Department and applied to the final overpayment."

31 **SECTION 12H.16.(e)** Subsection (d) of this section applies only to contracts
32 entered into or amended on or after the effective date of subsection (d).

33 **SECTION 12H.16.(f)** G.S. 1A-1 is amended by adding a new Article to read as
34 follows:

35 "Article 9.

36 "Extraordinary Writs.

37 **"Rule 90. Certiorari.**

38 (a) Scope of the Writ; Review of the Judgments, Decisions, and Orders of the Office of
39 Administrative Hearings. – The writ of certiorari may be issued in appropriate circumstances
40 by the Superior Court to permit review of the judgments, decisions, and orders of the Office of
41 Administrative Hearings when no right of appeal from an interlocutory order exists.

42 (b) Petition for Writ; to Which Superior Court Addressed. – Application for the writ of
43 certiorari shall be made by filing a petition therefor with the clerk of the superior court division
44 to which appeal of right might lie from a final decision of the Office of Administrative
45 Hearings in the contested case for which issuance of the writ is sought.

46 (c) Same; Filing and Service; Content. – The petition shall be filed without
47 unreasonable delay and shall be accompanied by proof of service upon all other parties. The
48 petition shall contain a statement of the facts necessary to an understanding of the issues
49 presented by the application, a statement of the reasons why the writ should issue, and certified
50 copies of the judgment, decision, order, or opinion or parts of the record which may be
51 essential to an understanding of the matters set forth in the petition. The petition shall be

1 verified by counsel or the petitioner. Upon receipt of the prescribed docket fee, the clerk will
2 docket the petition.

3 (d) Response; Determination by Court. – Within 10 days after service of the petition
4 any party may file a response thereto with supporting affidavits or certified portions of the
5 record not filed with the petition. Filing shall be accompanied by proof of service upon all other
6 parties. The court for good cause shown may shorten the time for filing a response.
7 Determination will be made on the basis of the petition, the response, and any supporting
8 papers. No briefs or oral argument will be received or allowed unless ordered by the court upon
9 its own initiative.

10 **"Rule 91. Mandamus and Prohibition.**

11 (a) Petition for Writ; to Which Superior Court Addressed. – Applications for the writs
12 of mandamus or prohibition directed to an administrative law judge shall be made by filing a
13 petition therefor with the clerk of the superior court division to which appeal of right might lie
14 from a final decision entered in the contested case for which issuance of the writ is sought.

15 (b) Same; Filing and Service; Content. – The petition shall be filed without
16 unreasonable delay after the action by the Office of Administrative Hearings sought to be
17 prohibited or compelled has been undertaken, or has occurred, or has been refused, and shall be
18 accompanied by proof of service on the respondent administrative law judge or administrative
19 law judges and on all other parties to the action. The petition shall contain a statement of the
20 facts necessary to an understanding of the issues presented by the application, a statement of
21 the issues presented and of the relief sought, a statement of the reasons why the writ should
22 issue, and certified copies of any order or opinion or parts of the record that may be essential to
23 an understanding of the matters set forth in the petition. The petition shall be verified by
24 counsel or the petitioner. Upon receipt of the prescribed docket fee, the clerk shall docket the
25 petition.

26 (c) Response; Determination by Court. – Within 10 days after service of the petition the
27 respondent or any party may file a response thereto with supporting affidavits or certified
28 portions of the record not filed with the petition. Filing shall be accompanied by proof of
29 service upon all other parties. The court for good cause shown may shorten the time for filing a
30 response. Determination will be made on the basis of the petition, the response, and any
31 supporting papers. No briefs or oral argument will be received or allowed unless ordered by the
32 court upon its own initiative.

33 **"Rule 92. Supersedeas.**

34 (a) Pending Review of Office of Administrative Hearings Judgments, Decisions, and
35 Orders. – Application may be made to the appropriate superior court for a writ of supersedeas
36 to stay the execution or enforcement of any judgment, decision, order, or other determination of
37 the Office of Administrative Hearings which is not automatically stayed by the taking of appeal
38 when an appeal has been taken or a petition for mandamus, prohibition, or certiorari has been
39 filed to obtain review of the judgment, decision, order, or other determination and (i) a stay
40 order or entry has been sought by the applicant by deposit of security or by motion at the Office
41 of Administrative Hearings and such order or entry has been denied or vacated by the trial
42 tribunal or (ii) extraordinary circumstances make it impracticable to obtain a stay by deposit of
43 security or by application to the Office of Administrative Hearings for a stay order.

44 (b) Petition; Filing and Service; Content. – The petition shall be filed with the clerk of
45 the superior court division to which appeal of right might lie from a final decision of the Office
46 of Administrative Hearings in the contested case for which issuance of the writ is sought. The
47 petitions shall be accompanied by proof of service upon all other parties. The petition shall be
48 verified by counsel or the petitioner. Upon receipt of the required docket fee, the clerk will
49 docket the petition. For stays of the judgments of the Office of Administrative Hearings, the
50 petition shall contain a statement that a stay has been sought in the Office of Administrative
51 Hearings and denied or vacated or shall contain facts showing that it was impracticable there to

1 seek a stay. For stays of any judgment, the petition shall contain (i) a statement of any facts
2 necessary to an understanding of the basis upon which the writ is sought and (ii) a statement of
3 reasons why the writ should issue in justice to the applicant. The petition may be accompanied
4 by affidavits and by any certified portions of the record pertinent to its consideration. It may be
5 included in a petition to the superior court for certiorari, mandamus, or prohibition.

6 (c) Response; Determination by Court. – Within 10 days after service of the petition,
7 any party may file a response thereto with supporting affidavits or certified portions of the
8 record not filed with the petition. Filing shall be accompanied by proof of service upon all other
9 parties. The court for good cause shown may shorten the time for filing a response.
10 Determination will be made on the basis of the petition, the response, and any supporting
11 papers. No briefs or oral argument will be received or allowed unless ordered by the court upon
12 its own initiative.

13 (d) Temporary Stay. – Upon the filing of a petition for supersedeas, the applicant may
14 apply, either within the petition or by separate paper, for an order temporarily staying
15 enforcement or execution of the judgment, decision, order, or other determination pending
16 decision by the court upon the petition for supersedeas. If application is made by separate
17 paper, it shall be filed and served in the manner provided for the petition for supersedeas in
18 Rule 92(b). The court for good cause shown in such a petition for temporary stay may issue
19 such an order ex parte."

20 **SECTION 12H.16.(g)** Article 4 of Chapter 150B of the General Statutes is
21 amended by adding a new section to read:

22 **"§ 150B-53. Writs.**

23 Any party to a contested case may petition for writs of certiorari, mandamus, prohibition, or
24 supersedeas in the manner prescribed in Rules 90, 91, and 92 of the North Carolina Rules of
25 Civil Procedure."

26
27 **CODIFY PROVIDER PERFORMANCE BONDS**

28 **SECTION 12H.17.(a)** Chapter 108C of the General Statutes is amended by adding
29 a new section to read as follows:

30 **"§ 108C-14. Provider performance bonds.**

31 (a) Subject to the provisions of this section, the Department may require
32 Medicaid-enrolled providers to purchase a performance bond in an amount not to exceed one
33 hundred thousand dollars (\$100,000) naming as beneficiary the Department of Health and
34 Human Services, Division of Medical Assistance, or provide to the Department a validly
35 executed letter of credit or other financial instrument issued by a financial institution or agency
36 honoring a demand for payment in an equivalent amount. The Department may require the
37 purchase of a performance bond or the submission of an executed letter of credit or financial
38 instrument as a condition of initial enrollment, reenrollment, recredentialing, or reinstatement if
39 any of the following are true:

40 (1) The provider fails to demonstrate financial viability.

41 (2) The Department determines there is significant potential for fraud and abuse.

42 (3) The Department otherwise finds it is in the best interest of the Medicaid
43 program to do so.

44 The Department shall specify the circumstances under which a performance bond or executed
45 letter of credit will be required.

46 (b) The Department may waive or limit the requirements of subsection (a) of this
47 section for individual Medicaid-enrolled providers or for one or more classes of
48 Medicaid-enrolled providers based on the following:

49 (1) The provider's or provider class's dollar amount of monthly billings to
50 Medicaid.

- 1 (2) The length of time an individual provider has been licensed, endorsed,
- 2 certified, or accredited in this State to provide services.
- 3 (3) The length of time an individual provider has been enrolled to provide
- 4 Medicaid services in this State.
- 5 (4) The provider's demonstrated ability to ensure adequate record keeping,
- 6 staffing, and services.
- 7 (5) The need to ensure adequate access to care.

8 In waiving or limiting requirements of this section, the Department shall take into consideration
9 the potential fiscal impact of the waiver or limitation on the State Medicaid Program. The
10 Department shall provide to the affected provider written notice of the findings upon which its
11 action is based and shall include the performance bond requirements and the conditions under
12 which a waiver or limitation apply."

13 **SECTION 12H.17.(b)** The Department may adopt temporary rules in accordance
14 with G.S. 150B-21.1 as necessary to implement G.S. 108C-14, as enacted by this section.

15 16 **SHARED SAVINGS PLAN WITH PROVIDERS**

17 **SECTION 12H.18.(a)** The Department of Health and Human Services shall
18 consult with providers affected by subsection (b) of this section to develop a shared savings
19 plan that the Department shall implement by July 1, 2014, with provider payments beginning
20 January 1, 2015. The shared savings plan shall provide incentives to provide effective and
21 efficient care that results in positive outcomes for Medicaid recipients. Payments under the
22 shared savings plan shall be paid from funds withheld under subsection (b) of this section.

23 **SECTION 12H.18.(b)** During the 2013-2015 fiscal biennium, the Department of
24 Health and Human Services shall withhold four percent (4%) of payments for the following
25 services rendered on or after July 1, 2013:

- 26 (1) Inpatient hospital.
- 27 (2) Physician, excluding primary care until January 1, 2015.
- 28 (3) Dental.
- 29 (4) Optical services and supplies.
- 30 (5) Podiatry.
- 31 (6) Chiropractors.
- 32 (7) Hearing aids.
- 33 (8) Personal care services.
- 34 (9) Nursing homes.
- 35 (10) Adult care homes.
- 36 (11) Drugs.

37 Funds from payments withheld under this section that are budgeted to be shared with providers
38 shall not revert to the General Fund.

39 **SECTION 12H.18.(c)** The Department of Health and Human Services shall report
40 to the Joint Legislative Oversight Committee on Health and Human Services on the
41 development of the shared savings program established by this section no later than March 1,
42 2014.

43 44 **MODIFY HOSPITAL PROVIDER ASSESSMENTS BY CHANGING AMOUNT** 45 **RETAINED BY STATE TO A PERCENTAGE**

46 **SECTION 12H.19.(a)** G.S. 108A-121(8) reads as rewritten:

47 "(8) State's annual Medicaid payment. - ~~Forty three million dollars~~
48 ~~(\$43,000,000).~~ For an assessment collected under this Article, an amount
49 equal to fifteen and six-tenths percent (15.6%) of the total amount collected
50 under the assessment."

51 **SECTION 12H.19.(b)** G.S. 108A-124 reads as rewritten:

1 **"§ 108A-124. Use of assessment proceeds.**

2 (a) Use. – The proceeds of the assessments imposed under this Article and all
3 corresponding matching federal funds must be used to make the State annual Medicaid
4 payment to the State and the Medicaid equity payments and UPL payments to hospitals.

5 (b) Quarterly Payments. – Within seven business days ~~of following~~ the due date for
6 each quarterly assessment imposed under G.S. 108A-123, the Secretary must do the following:

7 ~~(1) Transfer to the State Controller twenty-five percent (25%) of the State's~~
8 ~~annual Medicaid payment amount.~~

9 ~~(2)~~(1) Pay to each hospital that has paid its equity assessment for the respective
10 quarter twenty-five percent (25%) of its Medicaid equity payment amount. A
11 hospital's Medicaid equity payment amount is the sum of the hospital's
12 Medicaid inpatient and outpatient deficits after calculating all other
13 Medicaid payments, excluding disproportionate share hospital payments and
14 the UPL payment remitted to the hospital under subdivision ~~(3)~~(2) of this
15 subsection.

16 ~~(3)~~(2) Pay to the primary affiliated teaching hospital for the East Carolina
17 University Brody School of Medicine, to the critical access hospitals, and to
18 each hospital that has paid its UPL assessment for the respective quarter
19 twenty-five percent (25%) of its UPL payment amount, as determined under
20 subsection (c) of this section.

21"

22 **SECTION 12H.19.(c)** Article 7 of Chapter 108A is amended by adding a new
23 section to read as follows:

24 **"§ 108A-128. Payment for providers formerly subject to this Article.**

25 If a hospital provider (i) is exempt from both the equity and UPL assessments under this
26 Article, (ii) makes an intergovernmental transfer (IGT) to the Department of Health and Human
27 Services to be used to draw down matching federal funds, and (iii) has acquired, merged,
28 leased, or managed another provider on or after March 25, 2011, then the hospital provider
29 shall transfer to the State an additional amount, which shall be retained by the State. The
30 additional amount shall be fifteen and six tenths percent (15.6%) of the amount of funds that (i)
31 would be transferred to the State through such an IGT and (ii) are to be used to match
32 additional federal funds that the hospital provider is able to receive because of the acquired,
33 merged, leased, or managed provider."

34
35 **MODIFY MEDICAID RATE METHODOLOGIES FOR RECENTLY ACQUIRED**
36 **PROVIDERS; CREATE REGIONAL BASE RATES FOR HOSPITALS**

37 **SECTION 12H.20.(a)** The Department of Health and Human Services shall
38 modify Medicaid rate methodologies to ensure that rates paid to hospital or physician providers
39 that were acquired, merged, leased, or managed after December 31, 2011, do not exceed rates
40 that would have been paid if the provider had not been acquired, merged, leased, or managed.

41 **SECTION 12H.20.(b)** The Department of Health and Human Services, Division of
42 Medical Assistance, shall replace the existing base rates for individual hospitals with new
43 regional base rates for all hospitals within a given region. The Department shall consult with
44 hospitals to define the regions and to identify appropriate regional differences in order to
45 establish regional base rates. The new regional base rates shall do the following:

46 (1) Maintain the same statewide total for the base rates for all hospitals as before
47 the base rate revision, after first adjusting the statewide total based on the
48 changes to rates made by subsection (a) of this section.

49 (2) Ensure the sustainability of small rural hospitals, ensuring access to care.
50

1 **COMMUNITY CARE OF NORTH CAROLINA COST-EFFECTIVENESS AND**
2 **OUTCOMES STUDY; CONTINUED REPORTING**

3 **SECTION 12H.21.(a)** As recommended by the Office of the State Auditor in the
4 January 2013 performance audit of the Medicaid Program, the Department of Health and
5 Human Services shall engage medical researchers to perform a scientifically valid study based
6 upon actual data to determine whether the Community Care of North Carolina (CCNC) model
7 saves money and improves health outcomes. This study shall begin during fiscal year
8 2013-2014 and shall, if possible, be completed by the end of that fiscal year.

9 **SECTION 12H.21.(b)** During fiscal year 2014-2015, the Department of Health
10 and Human Services shall submit a report from a qualified entity with proven experience in
11 conducting actuarial and health care studies on the Medicaid cost-savings achieved by the
12 CCNC networks, which shall include children, adults, and the aged, blind, and disabled, to the
13 House of Representatives Appropriations Subcommittee on Health and Human Services, the
14 Senate Appropriations Committee on Health and Human Services, and the Fiscal Research
15 Division.

16 **SECTION 12H.21.(c)** North Carolina Community Care Networks, Inc. (NCCCN),
17 shall report quarterly to the Department and to the Office of State Budget and Management
18 (OSBM) on the development of the statewide Enhanced Primary Care Case Management
19 System and its defined goals and deliverables as agreed upon in the contract. NCCCN shall
20 submit biannual reports to the Secretary of Health and Human Services, OSBM, the House of
21 Representatives Appropriations Subcommittee on Health and Human Services, the Senate
22 Appropriations Committee on Health and Human Services, and the Fiscal Research Division on
23 the progress and results of implementing the quantitative, analytical, utilization, quality, cost
24 containment, and access goals and deliverables set out in the contract. NCCCN shall conduct its
25 own analysis of the CCNC system to identify any variations from the development plan for the
26 Enhanced Primary Care Case Management System and its defined goals and deliverables set
27 out in the contract between the Department of Health and Human Services, Division of Medical
28 Assistance (DMA), and NCCCN. Upon identifying any variations, NCCCN shall develop and
29 implement a plan to address the variations. NCCCN shall report the plan to DMA within 30
30 days after taking any action to implement the plan.

31
32 **COMMUNITY CARE OF NORTH CAROLINA TO SET AND PAY PER MEMBER**
33 **PER MONTH PAYMENTS ON PERFORMANCE BASIS TO ENCOURAGE**
34 **BETTER CARE MANAGEMENT**

35 **SECTION 12H.22.(a)** The Department of Health and Human Services shall
36 contract with Community Care Networks, Inc. (NCCCN), to administer and distribute the funds
37 currently allocated to per member per month (PMPM) payments for Community Care of North
38 Carolina (CCNC) primary care providers. NCCCN shall distribute one hundred percent (100%)
39 of the funds allocated to PMPM payments to primary care providers on a care management
40 performance basis using criteria developed by NCCCN. In developing its pay for performance
41 model, NCCCN shall (i) ensure an adequate statewide network of participating CCNC primary
42 care providers and (ii) adopt a payment level of zero dollars (\$0.00) for providers who do not
43 satisfactorily participate in CCNC care management initiatives. Performance-based payments
44 shall begin on July 1, 2014.

45 **SECTION 12H.22.(b)** PMPM payments from the Department to CCNC primary
46 care providers shall continue until the implementation of the performance-based payment
47 system.

48 **SECTION 12H.22.(c)** The Department shall consult with the Joint Legislative
49 Oversight Committee on Health and Human Services on the performance-based payment
50 proposal from NCCCN to incentivize better care management from primary care providers. If
51 the Department submits a report and requests a meeting for the consultation, but the Oversight

1 Committee does not hear the consultation within 90 days of the request, then the consultation
2 requirement shall be deemed waived by the Oversight Committee. The report submitted for
3 consultation shall include the following:

- 4 (1) Measureable elements that will be used to differentiate care management
5 performance-based payments from the existing PMPM payments.
- 6 (2) A comparison of the performance plan to other measures such as the
7 Healthcare Effectiveness Data and Information Set (HEDIS) or other
8 national performance or quality measures.
- 9 (3) The specific structure of when payments would be made.
- 10 (4) An impact calculation of prospective payments under the performance-based
11 payment plan and the current PMPM rates.

12 **SECTION 12H.22.(d)** Subsection (a) of this section is contingent upon both of the
13 following:

- 14 (1) The Department's successful renegotiation of and modification to the
15 existing contract or entering into a new contract with NCCCN to administer
16 and distribute performance-based payments, as provided in subsection (a) of
17 this section.
- 18 (2) The consultation required under subsection (c) of this section or an implied
19 waiver of the consultation requirement, as provided in subsection (c) of this
20 section.

21

22 GOVERNANCE OF ENTITIES TO MANAGE CARE AND CONTROL COSTS 23 STATEWIDE

24 **SECTION 12H.23.(a)** The General Assembly finds that the internal governance of
25 entities contracting with the State to provide centralized care coordination, cost containment, or
26 management of care on a Statewide basis for the Medicaid program is of significant importance
27 to the State, its taxpayers, and its Medicaid recipients, especially given the considerable amount
28 of public funds expended on such contracts. The General Assembly further finds that the public
29 has a profound interest in ensuring the quality of the entities' internal governance and,
30 therefore, it is appropriate that the public should have an influence in the entities' internal
31 governance.

32 **SECTION 12H.23.(b)** Based on the legislative findings of subsection (a) of this
33 section, the Department of Health and Human Services shall not enter into a new contract with
34 an entity to provide cost containment or management of care on a statewide basis for the
35 Medicaid program unless the entity adheres to the following governance provisions related to
36 the entity's governing board:

- 37 (1) The board shall contain individuals with experience in health care, including
38 the following:
 - 39 a. A health actuary.
 - 40 b. Someone with expertise in health information technology,
41 informatics, or provider performance measurement.
 - 42 c. Two representatives of the provider community.
 - 43 d. A representative of the health insurance industry.
- 44 (2) The board shall provide for public voting members to be appointed as
45 follows:
 - 46 a. Two persons appointed by the General Assembly on the
47 recommendation of the President Pro Tempore of the Senate.
 - 48 b. Two persons appointed by the General Assembly on the
49 recommendation of the Speaker of the House of Representatives.
 - 50 c. Two persons appointed by the Governor.

- 1 (3) No more than two members on the board may directly benefit from any per
2 member per month (PMPM) payments or incentive payments that are
3 distributed or administered by the entity.
- 4 (4) No more than twenty-five percent (25%) of the members of the board may
5 be providers or come from the provider community.
- 6 (5) No member of the board, or immediate family of a member of the board,
7 may be a registered lobbyist or be employed by an entity that lobbies on
8 behalf of a health care provider association.
- 9 (6) The board size may not exceed twice the number of persons to be appointed
10 under subdivision (2) of this section plus one.

11 **SECTION 12H.23.(c)** Subsection (b) of this section shall not apply to existing
12 contracts or renewals under existing contracts when the renewal is at the option of one party.

13 14 **ACCOUNTING FOR MEDICAID RECEIVABLES AS NONTAX REVENUE**

15 **SECTION 12H.24.(a)** Receivables reserved at the end of the 2013-2014 and
16 2014-2015 fiscal years shall, when received, be accounted for as nontax revenue for each of
17 those fiscal years.

18 **SECTION 12H.24.(b)** For the 2013-2014 fiscal year, the Department of Health
19 and Human Services shall deposit from its revenues one hundred ten million dollars
20 (\$110,000,000) with the Department of State Treasurer to be accounted for as nontax revenue.
21 For the 2014-2015 fiscal year, the Department of Health and Human Services shall deposit
22 from its revenues one hundred nine million dollars (\$109,000,000) with the Department of
23 State Treasurer to be accounted for as nontax revenue. These deposits shall represent the return
24 of General Fund appropriations, nonfederal revenue, fund balances, or other resources from
25 State-owned and State-operated hospitals which are used to provide indigent and non-indigent
26 care services. The return from State-owned and State-operated hospitals to DHHS will be made
27 from nonfederal resources in an amount equal to the amount of the payments from the Division
28 of Medical Assistance for uncompensated care. The treatment of any revenue derived from
29 federal programs shall be in accordance with the requirements specified in the Code of Federal
30 Regulations, Title 2, Part 225.

31 32 **MEDICAID SPECIAL FUND TRANSFER**

33 **SECTION 12H.25.** Of the funds transferred to the Department of Health and
34 Human Services for Medicaid programs pursuant to G.S. 143C-9-1, there is appropriated from
35 the Medicaid Special Fund to the Department of Health and Human Services the sum of
36 forty-three million dollars (\$43,000,000) for the 2013-2014 fiscal year and the sum of
37 forty-three million dollars (\$43,000,000) for the 2014-2015 fiscal year. These funds shall be
38 allocated as prescribed by G.S. 143C-9-1(b) for Medicaid programs. Notwithstanding the
39 prescription in G.S. 143C-9-1(b) that these funds not reduce State general revenue funding,
40 these funds shall replace the reduction in general revenue funding effected in this act.

41 42 **MEDICAID COST CONTAINMENT ACTIVITIES**

43 **SECTION 12H.26.(a)** The Department of Health and Human Services may use up
44 to five million dollars (\$5,000,000) in the 2013-2014 fiscal year and up to five million dollars
45 (\$5,000,000) in the 2014-2015 fiscal year in Medicaid funds budgeted for program services to
46 support the cost of administrative activities when cost-effectiveness and savings are
47 demonstrated. The funds shall be used to support activities that will contain the cost of the
48 Medicaid Program, including contracting for services, hiring additional staff, funding pilot
49 programs, Health Information Exchange and Health Information Technology (HIE/HIT)
50 administrative activities, or providing grants through the Office of Rural Health and
51 Community Care to plan, develop, and implement cost containment programs.

1 Medicaid cost containment activities may include prospective reimbursement
2 methods, incentive-based reimbursement methods, service limits, prior authorization of
3 services, periodic medical necessity reviews, revised medical necessity criteria, service
4 provision in the least costly settings, plastic magnetic-stripped Medicaid identification cards for
5 issuance to Medicaid enrollees, fraud detection software or other fraud detection activities,
6 technology that improves clinical decision making, credit balance recovery and data mining
7 services, and other cost containment activities. Funds may be expended under this section only
8 after the Office of State Budget and Management has approved a proposal for the expenditure
9 submitted by the Department. Proposals for expenditure of funds under this section shall
10 include the cost of implementing the cost containment activity and documentation of the
11 amount of savings expected to be realized from the cost containment activity.

12 **SECTION 12H.26.(b)** The Department shall report annually on the expenditures
13 under this section to the House of Representatives Appropriations Subcommittee on Health and
14 Human Services, the Senate Appropriations Committee on Health and Human Services, and the
15 Fiscal Research Division. The report shall include the methods used to achieve savings and the
16 amount saved by these methods. The report is due to the House of Representatives
17 Appropriations Subcommittee on Health and Human Services, the Senate Appropriations
18 Committee on Health and Human Services, and the Fiscal Research Division not later than
19 December 1 of each year for the activities of the previous State fiscal year.

20 **MISCELLANEOUS MEDICAID PROVISIONS**

21 **SECTION 12H.27.(a)** Volume Purchase Plans and Single Source Procurement. –
22 The Department of Health and Human Services, Division of Medical Assistance, may, subject
23 to the approval of a change in the State Medicaid Plan, contract for services, medical
24 equipment, supplies, and appliances by implementation of volume purchase plans, single
25 source procurement, or other contracting processes in order to improve cost containment.

26 **SECTION 12H.27.(b)** Cost Containment Programs. – The Department of Health
27 and Human Services, Division of Medical Assistance, may undertake cost containment
28 programs, including contracting for services, preadmissions to hospitals, and prior approval for
29 certain outpatient surgeries before they may be performed in an inpatient setting.

30 **SECTION 12H.27.(c)** Posting of Notices on Web Site. – For any public notice of
31 change required pursuant to the provisions of 42 C.F.R. § 447.205, the Department shall, no
32 later than seven business days after the date of publication, publish the same notice on its Web
33 site on the same Web page as it publishes State Plan amendments, and the notice shall remain
34 on the Web site continuously for 90 days.

35 **SECTION 12H.27.(d)** Medicaid Identification Cards. – The Department shall
36 issue Medicaid identification cards to recipients on an annual basis with updates as needed.

37 **SUBPART XII-I. MISCELLANEOUS**

38 **SPECIFY BOARD SELECTION FOR THE NORTH CAROLINA INSTITUTE OF** 39 **MEDICINE**

40 **SECTION 12I.1.(a)** G.S. 90-470 reads as rewritten:

41 **"§ 90-470. Institute of Medicine.**

42 **(a)** The persons appointed under the provisions of this section are declared to be a body
43 politic and corporate under the name and style of the North Carolina Institute of Medicine, and
44 by that name may sue and be sued, make and use a corporate seal and alter the same at
45 pleasure, contract and be contracted with, and shall have and enjoy all the rights and privileges
46 necessary for the purposes of this section. The corporation shall have perpetual succession.

47 **(b)** The purposes for which the corporation is organized are to:

48 **(1)** Be concerned with the health of the people of North Carolina;

- 1 (2) Monitor and study health matters;
- 2 (3) Respond authoritatively when found advisable;
- 3 (4) Respond to requests from outside sources for analysis and advice when this
- 4 will aid in forming a basis for health policy decisions.

5 ~~The 18 initial members of the North Carolina Institute of Medicine shall be appointed by~~
6 ~~the Governor.~~

7 (c) The North Carolina Institute of Medicine shall be governed by a Board of Directors.
8 ~~The initial members are authorized, prior to expanding the membership,~~ Board of Directors is
9 authorized to establish and amend bylaws, to procure facilities, employ a director and staff, to
10 solicit, receive and administer funds in the name of the North Carolina Institute of Medicine,
11 and carry out other activities necessary to fulfill the purposes of this section.

12 (d) ~~The members~~ Board of Directors shall select ~~with the approval of the Governor~~
13 ~~additional members,~~ members of the North Carolina Institute of Medicine, so that the total
14 membership will not exceed a number determined by the Board of Directors in its bylaws. The
15 membership should be distinguished and influential leaders from the major health professions,
16 the hospital industry, the health insurance industry, State and county government and other
17 political units, education, business and industry, the universities, and the university medical
18 centers.

19 (e) The North Carolina Institute of Medicine may receive and administer funds from
20 private sources, foundations, State and county governments, federal agencies, and professional
21 organizations.

22 (f) The director and staff of the North Carolina Institute of Medicine should be chosen
23 from those well established in the field of health promotion and medical care.

24 ~~For the purposes of Chapter 55A of the General Statutes, the members appointed under this~~
25 ~~section shall be considered the initial board of directors.~~

26 (g) The North Carolina Institute of Medicine is declared to be under the patronage and
27 control of the State.

28 (h) The General Assembly reserves the right to alter, amend, or repeal this ~~section.~~
29 Article."

30 **SECTION 12I.1.(b)** Article 31 of Chapter 90 is amended by adding a new section
31 to read as follows:

32 **"§ 90-471. Board of Directors of the Institute of Medicine.**

33 (a) The Board of Directors of the North Carolina Institute of Medicine shall be
34 appointed as follows:

- 35 (1) Seven individuals appointed by the General Assembly on the
36 recommendation of the Speaker of the House of Representatives.
- 37 (2) Seven individuals appointed by the General Assembly on the
38 recommendation of the President Pro Tempore of the Senate.
- 39 (3) Seven individuals appointed by the Governor.

40 (b) The members of the Board of Directors should be distinguished and influential
41 leaders from the major health professions, the hospital industry, the health insurance industry,
42 State and county government and other political units, education, business and industry, the
43 universities, and the university medical centers.

44 (c) Terms on the Board of Directors shall be for four years, and no individual may serve
45 more than two consecutive terms."

46 **SECTION 12I.1.(c)** For the appointments under G.S. 90-471, as enacted by this
47 section, with terms to begin on January 1, 2014, the appointing authorities shall designate
48 certain appointees to serve initial two-year terms as follows:

- 49 (1) Of those appointments on the recommendation of the Speaker of the House
50 of Representatives, three shall be designated for two-year terms.

- 1 (2) Of those appointments on the recommendation of the President Pro Tempore
- 2 of the Senate, three shall be designated for two-year terms.
- 3 (3) Of those appointments by the Governor, four shall be designated for
- 4 two-year terms.

5 A two-year term under this subsection shall count as a term for purposes of the two consecutive
 6 term limit provided in G.S. 90-471(c), as enacted by this section.

7 **SECTION 12I.1.(d)** The members of the Board of Directors serving as of the
 8 effective date of this act may continue to serve until January 1, 2014.

9 **SECTION 12I.1.(e)** Subsections (a) and (b) of this section become effective
 10 January 1, 2014.

11
 12 **SUBPART XII-J. DHHS BLOCK GRANTS**

13
 14 **DHHS BLOCK GRANTS**

15 **SECTION 12J.1.(a)** Except as otherwise provided, appropriations from federal
 16 block grant funds are made for each year of the fiscal biennium ending June 30, 2015,
 17 according to the following schedule:

18
 19 **TEMPORARY ASSISTANCE TO NEEDY FAMILIES**
 20 **(TANF) FUNDS**

21
 22 Local Program Expenditures

23
 24 Division of Social Services

25			
26	01.	Work First Family Assistance	\$ 60,285,413
27			
28	02.	Work First County Block Grants	82,485,495
29			
30	03.	Work First Electing Counties	2,352,521
31			
32	04.	Adoption Services – Special Children's Adoption Fund	2,026,877
33			
34	05.	Child Protective Services – Child Welfare	
35		Workers for Local DSS	9,412,391
36			
37	06.	Child Welfare Collaborative	632,416
38			

39 Division of Child Development

40			
41	07.	Subsidized Child Care Program	52,060,846
42			
43	08.	Swap Child Care Subsidy	6,352,644
44			

45 Division of Public Health

46			
47	09.	Teen Pregnancy Initiatives	2,500,000
48			

49 DHHS Administration

50			
51	10.	Division of Social Services	2,482,260

1		
2	11. Office of the Secretary	34,042
3		
4	Transfers to Other Block Grants	
5		
6	Division of Child Development	
7		
8	12. Transfer to the Child Care and Development Fund	71,773,001
9		
10	13. Transfer to Social Services Block Grant for Child	
11	Protective Services – Child Welfare Training in	
12	Counties	1,300,000
13		
14	14. Transfer to Social Services Block Grant for Child	
15	Protective Services	5,040,000
16		
17	15. Transfer to Social Services Block Grant for County	
18	Departments of Social Services for Children's Services	4,148,001
19		
20	TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES	
21	(TANF) FUNDS	\$ 302,885,907
22		
23	TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF)	
24	EMERGENCY CONTINGENCY FUNDS	
25		
26	Local Program Expenditures	
27		
28	Division of Social Services	
29		
30	01. Work First County Block Grants	\$ 5,580,925
31		
32	02. Work First Electing Counties	25,692
33		
34	03. Subsidized Child Care	6,549,469
35		
36	TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF)	
37	EMERGENCY CONTINGENCY FUNDS	\$ 12,156,086
38		
39	SOCIAL SERVICES BLOCK GRANT	
40		
41	Local Program Expenditures	
42		
43	Divisions of Social Services and Aging and Adult Services	
44		
45	01. County Departments of Social Services	\$ 29,422,137
46	(Transfer from TANF \$4,148,001)	
47		
48	02. Child Protective Services (Transfer from TANF)	5,040,000
49		
50	03. State In-Home Services Fund	1,943,950
51		

1	04.	Adult Protective Services	1,245,363
2			
3	05.	State Adult Day Care Fund	1,994,084
4			
5	06.	Child Protective Services/CPS Investigative Services –	
6		Child Medical Evaluation Program (Carousel Center for	
7		Abused Children \$134,592)	563,868
8			
9	07.	Special Children Adoption Incentive Fund	462,600
10			
11	08.	Child Protective Services – Child Welfare Training	
12		for Counties (Transfer from TANF)	1,300,000
13			
14	09.	Home and Community Care Block Grant (HCCBG)	1,696,888
15			
16	10.	Child Advocacy Centers	375,000
17			
18	11.	Guardianship	3,978,360
19			
20	12.	UNC Cares Contract	229,376
21			
22	13.	Foster Care Services	1,385,152
23			
24		Division of Central Management and Support	
25			
26	14.	DHHS Competitive Block Grants for Nonprofits	
27		(2013-2014 Fiscal Year Only)	3,852,500
28			
29		Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	
30			
31	15.	Mental Health Services – Adult and Child/Developmental	
32		Disabilities Program/Substance Abuse Services – Adult	4,030,730
33			
34		DHHS Program Expenditures	
35			
36		Division of Services for the Blind	
37			
38	16.	Independent Living Program	3,361,323
39			
40		Division of Health Service Regulation	
41			
42	17.	Adult Care Licensure Program	381,087
43			
44	18.	Mental Health Licensure and Certification Program	190,284
45			
46		DHHS Administration	
47			
48	19.	Division of Aging and Adult Services	577,745
49			
50	20.	Division of Social Services	559,109
51			

1	21.	Office of the Secretary/Controller's Office	127,731
2			
3	22.	Division of Child Development	13,878
4			
5	23.	Division of Mental Health, Developmental	
6		Disabilities, and Substance Abuse Services	27,446
7			
8	24.	Division of Health Service Regulation	118,946
9			
10	TOTAL SOCIAL SERVICES BLOCK GRANT		\$ 62,877,557
11			
12	LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT		
13			
14	Local Program Expenditures		
15			
16	Division of Social Services		
17			
18	01.	Low-Income Energy Assistance Program (LIEAP)	\$ 50,799,293
19			
20	02.	Crisis Intervention Program (CIP)	33,866,195
21			
22	Local Administration		
23			
24	Division of Social Services		
25			
26	03.	County DSS Administration	6,757,731
27			
28	DHHS Administration		
29			
30	04.	Office of the Secretary/DIRM	412,488
31			
32	05.	Office of the Secretary/Controller's Office	18,378
33			
34	Transfers to Other State Agencies		
35			
36	Department of Commerce		
37			
38	06.	Weatherization Program	15,024,936
39			
40	07.	Heating Air Repair and Replacement	
41		Program (HARRP)	7,193,873
42			
43	08.	Local Residential Energy Efficiency Service	
44		Providers – Weatherization	37,257
45			
46	09.	Local Residential Energy Efficiency Service	
47		Providers – HARRP	338,352
48			
49	10.	Department of Commerce Administration –	
50		Weatherization	37,257
51			

1	11.	Department of Commerce Administration –	
2		HARRP	338,352
3			
4		Department of Administration	
5			
6	12.	N.C. Commission on Indian Affairs	87,736
7			
8		TOTAL LOW-INCOME HOME ENERGY ASSISTANCE	
9		BLOCK GRANT	\$ 114,911,848
10			
11		CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT	
12			
13		Local Program Expenditures	
14			
15		Division of Child Development	
16			
17	01.	Child Care Services	
18		(Smart Start \$7,000,000)	\$ 158,328,747
19			
20	02.	Electronic Tracking System	3,000,000
21			
22	03.	Transfer from TANF Block Grant	
23		for Child Care Subsidies	71,773,001
24			
25	04.	Quality and Availability Initiatives	22,500,000
26		(TEACH Program \$3,800,000)	
27			
28		DHHS Administration	
29			
30		Division of Child Development	
31			
32	05.	DCDEE Administrative Expenses	6,000,000
33			
34	06.	Local Subsidized Child Care Services Support	13,274,413
35			
36		Division of Central Administration	
37			
38	07.	DHHS Central Administration – DIRM	
39		Technical Services	775,000
40			
41		TOTAL CHILD CARE AND DEVELOPMENT FUND	
42		BLOCK GRANT	\$ 275,651,161
43			
44		MENTAL HEALTH SERVICES BLOCK GRANT	
45			
46		Local Program Expenditures	
47			
48	01.	Mental Health Services – Adult	\$ 10,717,607
49			
50	02.	Mental Health Services – Child	5,121,991
51			

1	03. Administration	200,000
2		
3	TOTAL MENTAL HEALTH SERVICES BLOCK GRANT	\$ 16,039,598
4		
5	SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT	
6		
7	Local Program Expenditures	
8		
9	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	
10		
11	01. Substance Abuse Services – Adult	\$ 14,960,371
12		
13	02. Substance Abuse Treatment Alternative for Women	6,050,300
14		
15	03. Substance Abuse – HIV and IV Drug	3,919,723
16		
17	04. Substance Abuse Prevention – Child	7,186,857
18		
19	05. Substance Abuse Services – Child	4,190,500
20		
21	06. Administration	454,000
22		
23	Division of Public Health	
24		
25	07. Risk Reduction Projects	575,654
26		
27	08. Aid-to-Counties	190,295
28		
29	TOTAL SUBSTANCE ABUSE PREVENTION	
30	AND TREATMENT BLOCK GRANT	\$ 37,527,700
31		
32	MATERNAL AND CHILD HEALTH BLOCK GRANT	
33		
34	Local Program Expenditures	
35		
36	Division of Public Health	
37		
38	01. Children's Health Services	\$ 8,042,531
39		
40	02. Women's Health	
41	(March of Dimes \$350,000; Teen Pregnancy	
42	Prevention Initiatives \$650,000; Perinatal	
43	Quality Collaborative \$350,000; 17P Project \$47,000;	
44	Maternity Homes \$925,085; Carolina Pregnancy Care	
45	Fellowship \$250,000; ECU High Risk Maternity Clinic \$375,000)	8,532,935
46		
47	03. Local Health Departments/Oral Health Services	44,901
48		
49	Division of Central Management and Support	
50		
51	04. DHHS Competitive Block Grants for Nonprofits	

1	(2013-2014 Fiscal Year Only)	89,374
2		
3	DHHS Program Expenditures	
4		
5	Division of Public Health	
6		
7	05. Children's Health Services	1,301,504
8		
9	06. Women's Health – Maternal Health	105,419
10		
11	07. State Center for Health Statistics	164,487
12		
13	DHHS Administration	
14		
15	Division of Public Health	
16		
17	08. Division of Public Health Administration	573,108
18		
19	TOTAL MATERNAL AND CHILD	
20	HEALTH BLOCK GRANT	\$ 18,854,259
21		
22	PREVENTIVE HEALTH SERVICES BLOCK GRANT	
23		
24	Local Program Expenditures	
25		
26	01. DHHS Competitive Block Grants for Nonprofits	
27	(2013-2014 Fiscal Year Only)	1,331,961
28		
29	02. Injury and Violence Prevention (Services to Rape	
30	Victims – Set-Aside)	169,730
31		
32	DHHS Program Expenditures	
33		
34	Division of Public Health	
35		
36	03. HIV/STD Prevention and Community Planning	
37	(Transfer from Social Services Block Grant)	145,819
38		
39	04. Oral Health Preventive Services	46,302
40		
41	05. Laboratory Services – Testing, Training, and Consultation	10,980
42		
43	06. Injury and Violence Prevention (Services to Rape	
44	Victims – Set-Aside)	199,634
45		
46	07. Heart Disease and Stroke Prevention	162,249
47		
48	08. Performance Improvement and Accountability	213,971
49		
50	09. Physical Activity and Nutrition	38,000
51		

1	10.	State Center for Health Statistics	61,406
2			
3		TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT	\$ 2,380,052
4			
5		COMMUNITY SERVICES BLOCK GRANT	
6			
7		Local Program Expenditures	
8			
9		Office of Economic Opportunity	
10			
11	01.	Community Action Agencies	\$ 22,402,724
12			
13	02.	Limited Purpose Agencies	1,244,596
14			
15		DHHS Administration	
16			
17	03.	Office of Economic Opportunity	1,244,596
18			
19		TOTAL COMMUNITY SERVICES BLOCK GRANT	\$ 24,891,916

GENERAL PROVISIONS

SECTION 12J.1.(b) Information to Be Included in Block Grant Plans. – The Department of Health and Human Services shall submit a separate plan for each Block Grant received and administered by the Department, and each plan shall include the following:

- (1) A delineation of the proposed allocations by program or activity, including State and federal match requirements.
- (2) A delineation of the proposed State and local administrative expenditures.
- (3) An identification of all new positions to be established through the Block Grant, including permanent, temporary, and time-limited positions.
- (4) A comparison of the proposed allocations by program or activity with two prior years' program and activity budgets and two prior years' actual program or activity expenditures.
- (5) A projection of current year expenditures by program or activity.
- (6) A projection of federal Block Grant funds available, including unspent federal funds from the current and prior fiscal years.

SECTION 12J.1.(c) Changes in Federal Fund Availability. – If the Congress of the United States increases the federal fund availability for any of the Block Grants or contingency funds and other grants related to existing Block Grants administered by the Department of Health and Human Services from the amounts appropriated in this section, the Department shall allocate the increase proportionally across the program and activity appropriations identified for that Block Grant in this section. In allocating an increase in federal fund availability, the Office of State Budget and Management shall not approve funding for new programs or activities not appropriated in this section.

If the Congress of the United States decreases the federal fund availability for any of the Block Grants or contingency funds and other grants related to existing Block Grants administered by the Department of Health and Human Services from the amounts appropriated in this section, the Department shall develop a plan to adjust the block grants based on reduced federal funding.

Notwithstanding the provisions of this subsection, for fiscal years 2013-2014 and 2014-2015, increases in the federal fund availability for the Temporary Assistance to Needy Families (TANF) Block Grant shall be used for the North Carolina Child Care Subsidy program to pay for child care in four- or five-star rated facilities for four-year-old children.

1 Prior to allocating the change in federal fund availability, the proposed allocation
2 must be approved by the Office of State Budget and Management. If the Department adjusts the
3 allocation of any Block Grant due to changes in federal fund availability, then a report shall be
4 made to the Joint Legislative Oversight Committee on Health and Human Services, the Joint
5 Legislative Commission on Governmental Operations, and the Fiscal Research Division.

6 **SECTION 12J.1.(d)** Except as otherwise provided, appropriations from federal
7 Block Grant funds are made for each year of the fiscal biennium ending June 30, 2015,
8 according to the schedule enacted for State fiscal years 2013-2014 and 2014-2015 or until a
9 new schedule is enacted by the General Assembly.

10 **SECTION 12J.1.(e)** All changes to the budgeted allocations to the Block Grants or
11 contingency funds and other grants related to existing Block Grants administered by the
12 Department of Health and Human Services that are not specifically addressed in this section
13 shall be approved by the Office of State Budget and Management, and the Office of State
14 Budget and Management shall consult with the Joint Legislative Commission on Governmental
15 Operations for review prior to implementing the changes. The report shall include an itemized
16 listing of affected programs, including associated changes in budgeted allocations. All changes
17 to the budgeted allocations to the Block Grants shall be reported immediately to the Joint
18 Legislative Oversight Committee on Health and Human Services and the Fiscal Research
19 Division. This subsection does not apply to Block Grant changes caused by legislative salary
20 increases and benefit adjustments.

21 **TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) FUNDS**

22 **SECTION 12J.1.(f)** The sum of eighty-two million four hundred eighty-five
23 thousand four hundred ninety-five dollars (\$82,485,495) appropriated in this section in TANF
24 funds to the Department of Health and Human Services, Division of Social Services, for each
25 year of the 2013-2015 fiscal biennium shall be used for Work First County Block Grants. The
26 Division shall certify these funds in the appropriate State-level services based on prior year
27 actual expenditures. The Division has the authority to realign the authorized budget for these
28 funds among the State-level services based on current year actual expenditures.

29 **SECTION 12J.1.(g)** The sum of two million four hundred eighty-two thousand
30 two hundred sixty dollars (\$2,482,260) appropriated in this section in TANF funds to the
31 Department of Health and Human Services, Division of Social Services, for each year of the
32 2013-2015 fiscal biennium shall be used to support administration of TANF-funded programs.

33 **SECTION 12J.1.(h)** The sum of nine million four hundred twelve thousand three
34 hundred ninety-one dollars (\$9,412,391) appropriated in this section to the Department of
35 Health and Human Services, Division of Social Services, in TANF funds for each year of the
36 2013-2015 fiscal biennium for child welfare improvements shall be allocated to the county
37 departments of social services for hiring or contracting staff to investigate and provide services
38 in Child Protective Services cases; to provide foster care and support services; to recruit, train,
39 license, and support prospective foster and adoptive families; and to provide interstate and
40 post-adoption services for eligible families.

41 Counties shall maintain their level of expenditures in local funds for Child
42 Protective Services' workers. Of the block grant funds appropriated for Child Protective
43 Services' workers, the total expenditures from State and local funds for fiscal years 2013-2014
44 and 2014-2015 shall not be less than the total expended from State and local funds for the
45 2012-2013 fiscal year.

46 **SECTION 12J.1.(i)** The sum of two million twenty-six thousand eight hundred
47 seventy-seven dollars (\$2,026,877) appropriated in this section in TANF funds to the
48 Department of Health and Human Services, Special Children Adoption Fund, for each year of
49 the 2013-2015 fiscal biennium shall be used in accordance with G.S. 108A-50.2. The Division
50 of Social Services, in consultation with the North Carolina Association of County Directors of
51

1 Social Services and representatives of licensed private adoption agencies, shall develop
2 guidelines for the awarding of funds to licensed public and private adoption agencies upon the
3 adoption of children described in G.S. 108A-50 and in foster care. Payments received from the
4 Special Children Adoption Fund by participating agencies shall be used exclusively to enhance
5 the adoption services program. No local match shall be required as a condition for receipt of
6 these funds.

7 **SECTION 12J.1.(j)** The sum of six hundred thirty-two thousand four hundred
8 sixteen dollars (\$632,416) appropriated in this section to the Department of Health and Human
9 Services in TANF funds for each year of the 2013-2015 fiscal biennium shall be used to
10 continue support for the Child Welfare Collaborative.

11 **SECTION 12J.1.(k)** The Department of Health and Human Services, Division of
12 Social Services, shall use funds appropriated in the Temporary Assistance to Needy Families
13 (TANF) Block Grant and allocated for Work First Family Assistance for each year of the
14 2013-2015 fiscal biennium to implement Section 12C.6 of this act.

15 16 **SOCIAL SERVICES BLOCK GRANT**

17 **SECTION 12J.1.(l)** The sum of twenty-nine million four hundred twenty-two
18 thousand one hundred thirty-seven dollars (\$29,422,137) appropriated in this section in the
19 Social Services Block Grant to the Department of Health and Human Services, Division of
20 Social Services, for each year of the 2013-2015 fiscal biennium shall be used for County Block
21 Grants. The Division shall certify these funds in the appropriate State-level services based on
22 prior year actual expenditures. The Division has the authority to realign the authorized budget
23 for these funds among the State-level services based on current year actual expenditures.

24 **SECTION 12J.1.(m)** The sum of one million three hundred thousand dollars
25 (\$1,300,000) appropriated in this section in the Social Services Block Grant to the Department
26 of Health and Human Services, Division of Social Services, for each year of the 2013-2015
27 fiscal biennium shall be used to support various child welfare training projects as follows:

- 28 (1) Provide a regional training center in southeastern North Carolina.
- 29 (2) Provide training for residential child caring facilities.
- 30 (3) Provide for various other child welfare training initiatives.

31 **SECTION 12J.1.(n)** The Department of Health and Human Services is authorized,
32 subject to the approval of the Office of State Budget and Management, to transfer Social
33 Services Block Grant funding allocated for departmental administration between divisions that
34 have received administrative allocations from the Social Services Block Grant.

35 **SECTION 12J.1.(o)** Social Services Block Grant funds appropriated for the
36 Special Children's Adoption Incentive Fund will require a fifty percent (50%) local match.

37 **SECTION 12J.1.(p)** The sum of five million forty thousand dollars (\$5,040,000)
38 appropriated in this section in the Social Services Block Grant for each year of the 2013-2015
39 fiscal biennium shall be allocated to the Department of Health and Human Services, Division
40 of Social Services. The Division shall allocate these funds to local departments of social
41 services to replace the loss of Child Protective Services State funds that are currently used by
42 county government to pay for Child Protective Services staff at the local level. These funds
43 shall be used to maintain the number of Child Protective Services workers throughout the State.
44 These Social Services Block Grant funds shall be used to pay for salaries and related expenses
45 only and are exempt from 10A NCAC 71R .0201(3) requiring a local match of twenty-five
46 percent (25%).

47 **SECTION 12J.1.(q)** The sum of three million eight hundred fifty-two thousand
48 five hundred dollars (\$3,852,500) appropriated in this section in the Social Services Block
49 Grant to the Department of Health and Human Services, Division of Central Management and
50 Support, shall be used for DHHS competitive block grants pursuant to Section 12A.2 of this act

1 for the 2013-2014 fiscal year only. These funds are exempt from the provisions of 10A NCAC
2 71R .0201(3).

3 **SECTION 12J.1.(r)** The sum of three hundred seventy-five thousand dollars
4 (\$375,000) appropriated in this section in the Social Services Block Grant for each year of the
5 2013-2015 fiscal biennium to the Department of Health and Human Services, Division of
6 Social Services, shall be used to continue support for the Child Advocacy Centers and are
7 exempt from the provisions of 10A NCAC 71R .0201(3).

8 **SECTION 12J.1.(s)** Social Services Block Grant funds allocated each year of the
9 2013-2015 fiscal biennium for child medical evaluations and the Carousel Center for Abused
10 Children are exempt from the provisions of 10A NCAC 71R .0201(3).

11 **SECTION 12J.1.(t)** The sum of three million nine hundred seventy-eight thousand
12 three hundred sixty dollars (\$3,978,360) appropriated in this section in the Social Services
13 Block Grant for each year of the 2013-2015 fiscal biennium to the Department of Health and
14 Human Services, Divisions of Social Services and Aging and Adult Services, shall be used for
15 guardianship services pursuant to Chapter 35A of the General Statutes. The Department may
16 expend funds appropriated in this section to support (i) existing corporate guardianship
17 contracts during the 2013-2014 and 2014-2015 fiscal years and (ii) guardianship contracts
18 transferred to the State from local management entities or managed care organizations during
19 the 2013-2014 and 2014-2015 fiscal years.

20 **LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT**

21 **SECTION 12J.1.(u)** Additional emergency contingency funds received may be
22 allocated for Energy Assistance Payments or Crisis Intervention Payments without prior
23 consultation with the Joint Legislative Commission on Governmental Operations. Additional
24 funds received shall be reported to the Joint Legislative Commission on Governmental
25 Operations and the Fiscal Research Division upon notification of the award. The Department of
26 Health and Human Services shall not allocate funds for any activities, including increasing
27 administration, other than assistance payments, without prior consultation with the Joint
28 Legislative Commission on Governmental Operations.

29 **SECTION 12J.1.(v)** The sum of fifty million seven hundred ninety-nine thousand
30 two hundred ninety-three dollars (\$50,799,293) appropriated in this section in the Low-Income
31 Home Energy Assistance Block Grant for each year of the 2013-2015 fiscal biennium to the
32 Department of Health and Human Services, Division of Social Services, shall be used for
33 energy assistance payments for the households of (i) elderly persons age 60 and above with
34 income up to one hundred thirty percent (130%) of the federal poverty level and (ii) disabled
35 persons eligible for services funded through the Division of Aging and Adult Services. County
36 departments of social services shall submit to the Division of Social Services an outreach plan
37 for targeting households with 60-year-old household members no later than August 1 of each
38 year.
39

40 **CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT**

41 **SECTION 12J.1.(w)** Payment for subsidized child care services provided with
42 federal TANF funds shall comply with all regulations and policies issued by the Division of
43 Child Development for the subsidized child care program.

44 **SECTION 12J.1.(x)** If funds appropriated through the Child Care and
45 Development Fund Block Grant for any program cannot be obligated or spent in that program
46 within the obligation or liquidation periods allowed by the federal grants, the Department may
47 move funds to child care subsidies, unless otherwise prohibited by federal requirements of the
48 grant, in order to use the federal funds fully.
49

50 **MATERNAL AND CHILD HEALTH BLOCK GRANT**

1 **SECTION 12J.1.(y)** If federal funds are received under the Maternal and Child
2 Health Block Grant for abstinence education, pursuant to section 912 of Public Law 104-193
3 (42 U.S.C. § 710), for the 2013-2014 fiscal year or the 2014-2015 fiscal year, then those funds
4 shall be transferred to the State Board of Education to be administered by the Department of
5 Public Instruction. The Department of Public Instruction shall use the funds to establish an
6 abstinence until marriage education program and shall delegate to one or more persons the
7 responsibility of implementing the program and G.S. 115C-81(e1)(4) and (4a). The Department
8 of Public Instruction shall carefully and strictly follow federal guidelines in implementing and
9 administering the abstinence education grant funds.

10 **SECTION 12J.1.(z)** The Department of Health and Human Services shall ensure
11 that there will be follow-up testing in the Newborn Screening Program.

12 **SECTION 12J.1.(aa)** The sum of eighty-nine thousand three hundred seventy-four
13 dollars (\$89,374) appropriated in this section in the Maternal and Child Health Block Grant to
14 the Department of Health and Human Services, Division of Central Management and Support,
15 shall be used for DHHS competitive block grants pursuant to Section 12A.2 of this act for the
16 2013-2014 fiscal year only.

17 18 **PREVENTIVE HEALTH SERVICES BLOCK GRANT**

19 **SECTION 12J.1.(bb)** The sum of one million three hundred thirty-one thousand
20 nine hundred sixty-one dollars (\$1,331,961) appropriated in this section in the Preventive
21 Health Services Block Grant to the Department of Health and Human Services, Division of
22 Central Management and Support, shall be used for DHHS competitive block grants pursuant
23 to Section 12A.2 of this act for the 2013-2014 fiscal year only.

24 25 **PART XIII. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

26 27 **INCREASE CERTAIN AGRONOMIC TESTING FEES**

28 **SECTION 13.1.(a)** G.S. 106-22 reads as rewritten:

29 **"§ 106-22. Joint duties of Commissioner and Board.**

30 The Commissioner of Agriculture, by and with the consent and advice of the Board of
31 Agriculture shall:

- 32 ...
- 33 (17) Agronomic Testing. – Provide agronomic testing services and charge
34 reasonable fees for plant analysis, nematode testing, in-State soil testing
35 during peak season, out-of-state soil testing, and expedited soil testing. The
36 Board shall charge at least four dollars (\$4.00) for plant analysis, at least two
37 dollars (\$2.00) for nematode testing, at least four dollars (\$4.00) for in-State
38 soil testing during peak season, at least five dollars (\$5.00) for out-of-state
39 soil testing, and at least ~~one hundred dollars (\$100.00)~~ two hundred dollars
40 (\$200.00) for expedited soil testing. As used in this subdivision, "peak
41 season" includes at a minimum the four-month period beginning no later
42 than December 1 of any year and extending until at least March 31 of the
43 following year. The Board may modify the meaning of peak season by
44 starting a peak season earlier in any year or ending it later the following year
45 or both.

46 "

47 **SECTION 13.1.(b)** It is the intent of the General Assembly that receipts generated
48 from the new fee for in-State soil testing during peak season under G.S. 106-22(17), as
49 amended by this section, are to be used to alleviate testing delays in the peak testing season.
50 Any receipts generated as a result of the new fee for in-State soil testing during peak season are
51 appropriated to the Department of Agriculture and Consumer Services for the 2013-2014 fiscal

1 year and for the 2014-2015 fiscal year and shall be available to the Department in addition to
2 any other existing funding sources.

3 **SECTION 13.1.(c)** This section becomes effective July 1, 2013, and applies to
4 submissions received by the Department for testing or analysis on or after that date.

5
6 **UNENCUMBERED AGRICULTURAL WATER RESOURCES ASSISTANCE**
7 **PROGRAM FUNDS**

8 **SECTION 13.2.(a)** Up to twenty percent (20%) of the funds appropriated to the
9 Department of Agriculture and Consumer Services for the Agricultural Water Resources
10 Assistance Program under Article 5 of Chapter 139 of the General Statutes for the 2013-2014
11 fiscal year that are unexpended and unencumbered at the end of the 2013-2014 fiscal year shall
12 not revert but shall remain available for expenditure for that purpose through the 2014-2015
13 fiscal year. The remaining funds appropriated to the Department of Agriculture and Consumer
14 Services for the Agricultural Water Resources Assistance Program for the 2013-2014 fiscal
15 year that are unexpended and unencumbered at the end of the 2013-2014 fiscal year shall revert
16 to the General Fund.

17 **SECTION 13.2.(b)** Up to twenty percent (20%) of the funds appropriated to the
18 Department of Agriculture and Consumer Services for the Agricultural Water Resources
19 Assistance Program under Article 5 of Chapter 139 of the General Statutes for the 2014-2015
20 fiscal year that are unexpended and unencumbered at the end of the 2014-2015 fiscal year shall
21 not revert but shall remain available for expenditure for that purpose through the 2015-2016
22 fiscal year. The remaining funds appropriated to the Department of Agriculture and Consumer
23 Services for the Agricultural Water Resources Assistance Program for the 2014-2015 fiscal
24 year that are unexpended and unencumbered at the end of the 2014-2015 fiscal year shall revert
25 to the General Fund.

26
27 **TVA SETTLEMENT FUNDS**

28 **SECTION 13.3.(a)** The General Assembly encourages the Department of
29 Agriculture and Consumer Services, when the Department awards grants from funds received
30 by the State pursuant to the provisions of the Consent Decree entered into by the State in *State*
31 *of Alabama et al. v. Tennessee Valley Authority*, Civil Action 3:11-cv-00170 in the United
32 States District Court for the Eastern District of Tennessee and allocated to the Department of
33 Agriculture and Consumer Services for "Environmental Mitigation Projects" of the types
34 specified in paragraph 128 of the Consent Decree, to use its best efforts to identify projects that
35 are located in TVA's power service area or the Tennessee River watershed and to give
36 preference to such projects over projects outside these areas. However, any project funding
37 requested that is within the categories identified in paragraph 128 of the Consent Decree shall
38 be funded by TVA in accordance with this paragraph regardless of where in the State the funds
39 will be utilized. TVA shall not have approval rights over the projects.

40 **SECTION 13.3.(b)** In fiscal year 2013-2014, The Department of Environment and
41 Natural Resources, State Energy Office, shall apply for two million two hundred forty thousand
42 dollars (\$2,240,000) from the Tennessee Valley Authority Settlement Agreement in compliance
43 with the requirements of paragraphs 122 through 128 of the Consent Decree entered into by the
44 State in *State of Alabama et al. v. Tennessee Valley Authority*, Civil Action 3:11-cv-00170 in
45 the United States District Court for the Eastern District of Tennessee, and Appendix C to the
46 Compliance Agreement. The funds received by the State shall be allocated as follows:

- 47 (1) One million dollars (\$1,000,000) to North Carolina Agricultural Water
48 Resources Assistance Program (AgWRAP).
49 (2) One million dollars (\$1,000,000) to North Carolina Agricultural
50 Development and Farmland Preservation Trust Fund.

- 1 (3) Two hundred forty thousand dollars (\$240,000) to Appalachian Energy
2 Center at Appalachian State University.
3

4 **SUSTAINABLE LOCAL FOOD ADVISORY COUNCIL SUNSET**

5 **SECTION 13.4.** Section 1 of S.L. 2012-75 reads as rewritten:

6 "SECTION 1. Section 4 of S.L. 2009-530 reads as rewritten:

7 "SECTION 4. This act is effective when it becomes law and shall expire on ~~July 31,~~
8 2015-June 30, 2013."
9

10 **TOBACCO TRUST FUND**

11 **SECTION 13.5.** Notwithstanding any other provisions of G.S. 143-720 or the
12 provisions of G.S. 143-721, the funds appropriated from the General Fund to the Tobacco Trust
13 Fund for the 2013-2014 fiscal year and for the 2014-2015 fiscal year shall be used as follows:

- 14 (1) Up to three hundred fifty thousand dollars (\$350,000) may be used for
15 administrative expenses each fiscal year.
16 (2) All remaining funds shall be used each fiscal year to provide direct financial
17 assistance to tobacco producers as permitted under G.S. 143-720.
18

19 **BOB MARTIN EASTERN AGRICULTURAL CENTER AND SOUTHEASTERN** 20 **AGRICULTURE CENTER FUNDS**

21 **SECTION 13.6.(a)** If the Senator Bob Martin Eastern Agricultural Center is not at
22 least fifty percent (50%) receipt supported by the end of the 2014-2015 fiscal year, no
23 additional appropriations from the General Fund shall be provided to the Senator Bob Martin
24 Eastern Agricultural Center, and no funds shall be included for this purpose in the continuation
25 budget of the Department of Agriculture and Consumer Services.

26 **SECTION 13.6.(b)** If the Southeastern Agriculture Center is not at least fifty
27 percent (50%) receipt supported by the end of the 2014-2015 fiscal year, no additional
28 appropriations from the General Fund shall be provided to the Southeastern Agriculture Center,
29 and no funds shall be included for this purpose in the continuation budget of the Department of
30 Agriculture and Consumer Services.
31

32 **FUTURE FARMERS OF AMERICA PROGRAM FUNDS/REPORTING** 33 **REQUIREMENTS/USE OF STATE FUNDS**

34 **SECTION 13.7.(a)** Of the funds available to the Department of Agriculture and
35 Consumer Services for administration of the Department, up to fifty thousand dollars (\$50,000)
36 for the 2013-2014 fiscal year and up to fifty thousand dollars (\$50,000) for the 2014-2015
37 fiscal year may be used as a grant-in-aid to the North Carolina Agricultural Foundation, Inc.,
38 for the Future Farmers of America program.

39 **SECTION 13.7.(b)** North Carolina Agricultural Foundation-FFA Foundation
40 (hereinafter "FFA Foundation") shall do the following if the Department of Agriculture and
41 Consumer Services allocates funds to the entity:

- 42 (1) By September 1 of each year, and more frequently as requested, report to the
43 Joint Legislative Commission on Governmental Operations and the Fiscal
44 Research Division on prior State fiscal year program activities, objectives,
45 and accomplishments and prior State fiscal year itemized expenditures and
46 fund sources.
47 (2) Provide to the Fiscal Research Division a copy of the organization's annual
48 audited financial statement within 30 days of issuance of the statement.

49 **SECTION 13.7.(c)** No more than one hundred twenty thousand dollars (\$120,000)
50 in State funds shall be used for the annual salary of any one employee of FFA Foundation. For

1 purposes of this subsection, the term "State funds" means funds allocated to FFA Foundation
2 and interest earned on those funds.

3 **SECTION 13.7.(d)** No State funds shall be used by FFA Foundation (i) to hire or
4 facilitate the hiring of a lobbyist or any person performing the duties or activities of a lobbyist,
5 without regard to the person's title or (ii) to facilitate any lobbying efforts.

6 **PART XIV. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

7 **DEVELOP PLAN FOR AQUARIUMS TO RAISE PRIVATE FUNDS FOR SUPPORT** 8 **ASSISTANCE**

9 **SECTION 14.1.** No later than April 1, 2014, the Division of North Carolina
10 Aquariums of the Department of Environment and Natural Resources shall develop a plan for
11 the North Carolina Aquariums established under Article 5C of Chapter 143B of the General
12 Statutes to increase the amount of private funds raised through the direct efforts of each North
13 Carolina Aquarium in order to make the North Carolina Aquariums become more financially
14 self-sustaining. No later than April 1, 2014, the Division of North Carolina Aquariums of the
15 Department of Environment and Natural Resources shall report its plan under this section to the
16 Senate Appropriations Committee on Natural and Economic Resources, the House of
17 Representatives Appropriations Subcommittee on Natural and Economic Resources, and the
18 Fiscal Research Division.

19 **EARLY SUNSET FOR NC SUSTAINABLE COMMUNITIES TASK FORCE**

20 **SECTION 14.2.** Section 13.5(e) of S.L. 2010-31 reads as rewritten:

21 **"SECTION 13.5.(e)** Sunset. – This section expires June 30, ~~2016~~2013."

22 **WATER AND LAND CONSERVATION FUND/GRANT PROGRAM CREATED;** 23 **CWMTF AND NHTF REPEALED**

24 **SECTION 14.3.(a)** All staff that are supported by the Clean Water Management
25 Trust Fund and employed by the Clean Water Management Trust Fund Board of Trustees are
26 transferred to the Department of Environment and Natural Resources and shall be supported by
27 the Water and Land Conservation Fund, established in G.S. 113A-262, as enacted by
28 subsection (b) of this section, and shall be employed by the Department of Environment and
29 Natural Resources.

30 **SECTION 14.3.(b)** Chapter 113A of the General Statutes is amended by adding a
31 new Article to read:

32 "Article 19.

33 "Water and Land Conservation Grant Program.

34 **"§ 113A-260. Purpose.**

35 The General Assembly recognizes that a critical need exists in this State to clean up
36 pollution in the State's surface waters and to protect, preserve, and conserve those waters that
37 are not yet polluted. The General Assembly recognizes that a critical need exists in this State to
38 protect, preserve, and conserve the lands in our State that have natural or cultural significance.
39 The task of cleaning up polluted waters and protecting and enhancing the State's water
40 resources is multifaceted and requires different approaches, including innovative pilot projects
41 that take into account the problems, the type of pollution, the geographical area, and the
42 recognition that the hydrological and ecological values of each resource sought to be upgraded,
43 conserved, and protected are unique.

44 It is the intent of the General Assembly that grants under this Article shall be used to help
45 finance projects that specifically address water pollution problems and focus on upgrading
46 surface waters, eliminating pollution, and protecting, preserving, and conserving unpolluted
47 surface waters, including enhancement or development of drinking water supplies. It is the

1 further intent of the General Assembly that grants under this Article also be used to build a
2 network of riparian buffers and greenways for environmental, educational, and recreational
3 benefits. Lastly, it is the intent of the General Assembly that moneys from the Fund also be
4 used to preserve lands that could be used for water supply reservoirs or that are part of the
5 State's natural heritage. While the purpose of this Article is to focus on the cleanup and
6 prevention of pollution of the State's surface waters and on the preservation of its natural
7 heritage areas, the General Assembly believes that the results of these efforts will also be
8 beneficial to wildlife and marine fisheries habitats, wildlife resources, and marine fisheries
9 resources.

10 **"§ 113A-261. Definitions.**

11 The following definitions apply in this Article:

- 12 (1) Appraised value. – The price estimated in terms of money at which the
13 property would change hands between a willing and financially able buyer
14 and a willing seller, neither being under any compulsion to buy or sell and
15 both having reasonable knowledge of the uses to which the property is
16 adapted and for which it is capable of being used.
- 17 (2) Authority. – The Water and Land Conservation Authority created under
18 G.S. 113A-266.
- 19 (3) Land. – Real property and any interest in, easement in, or restriction on real
20 property.
- 21 (4) Local government unit. – Defined in G.S. 159G-20.

22 **"§ 113A-262. Water and Land Conservation Fund.**

23 (a) Fund Established. – The Water and Land Conservation Fund is established as a
24 special revenue fund within the Department of Environment and Natural Resources to be
25 administered by the Department of Environment and Natural Resources. The Fund receives
26 revenue from the following sources and may receive revenue from other sources:

- 27 (1) Annual appropriations.
- 28 (2) Scenic River special registration plates under G.S. 20-81.12.

29 (b) Fund Earnings, Assets, and Balances. – The State Treasurer shall hold the Fund
30 separate and apart from all other moneys, funds, and accounts. Investment earnings credited to
31 the assets of the Fund shall become part of the Fund. Any balance remaining in the Fund at the
32 end of any fiscal year shall be carried forward in the Fund for the next succeeding fiscal year.
33 Payments from the Fund shall be made on the warrant of the Chair of the Authority.

34 (c) Fund Purposes. – Moneys from the Fund are appropriated annually to provide water
35 conservation grants under subsection (b) of G.S. 113A-263 or to provide land conservation
36 grants under subsection (c) of G.S. 113A-263.

37 (d) Limit on Operating and Administrative Expenses. – No more than one million two
38 hundred fifty thousand dollars (\$1,250,000) may be used each fiscal year for the total
39 administrative and operating costs of all of the following:

- 40 (1) The administrative and operating costs of the program under this Article.
- 41 (2) The administrative and operating expenses of the Authority under
42 G.S. 113A-266 and its executive director under G.S. 113A-270.

43 **"§ 113A-263. Water and Land Conservation Grant Program.**

44 (a) Program Established. – The Water and Land Conservation Program is established
45 within the Department of Environment and Natural Resources.

46 (b) Water Conservation Grants. – Grants under this subsection may be used for any of
47 the following purposes:

- 48 (1) To acquire land for riparian buffers for the purposes of providing
49 environmental protection for surface waters and urban drinking water
50 supplies and establishing a network of riparian greenways for environmental,

- 1 educational, and recreational uses, and to retire debt incurred for this
2 purpose under Article 9 of Chapter 142 of the General Statutes.
3 (2) To acquire conservation easements or other interests in real property for the
4 purpose of protecting and conserving surface waters and enhancing drinking
5 water supplies, including the development of water supply reservoirs.
6 (3) To coordinate with other public programs involved with lands adjoining
7 water bodies to gain the most public benefit while protecting and improving
8 water quality.
9 (4) To restore previously degraded lands to reestablish their ability to protect
10 water quality.
11 (5) To provide buffers around military bases or for State matching funds for the
12 Readiness and Environmental Protection Initiative, a federal funding
13 initiative that provides funds for military buffers.
14 (6) To facilitate planning that targets reductions in surface water pollution.
15 (7) To finance innovative efforts, including pilot projects, to reduce pollutants
16 entering the State's waterways, to improve water quality, and to research
17 alternative solutions to the State's water quality problems.

18 (c) Land Conservation Grants. – Grants under this subsection may be used for any of
19 the following purposes:

- 20 (1) To acquire land that represents the ecological diversity of North Carolina,
21 including natural features such as riverine, montane, coastal, and geologic
22 systems and other natural areas to ensure their preservation and conservation
23 for recreational, scientific, educational, cultural, and aesthetic purposes.
24 (2) To acquire land as additions to the system of parks, State trails, aesthetic
25 forests, fish and wildlife management areas, wild and scenic rivers, and
26 natural areas for the beneficial use and enjoyment of the public.
27 (3) To acquire land that contributes to the development of a balanced State
28 program of historic properties.
29 (4) To pay for the inventory of natural areas conducted under the Natural
30 Heritage Program established pursuant to the Nature Preserves Act, Article
31 9A of Chapter 113A of the General Statutes.
32 (5) To pay for conservation and protection planning and for informational
33 programs for owners of natural areas, as defined in G.S. 113A-164.3.

34 **"§ 113A-264. Water conservation grants; requirements.**

35 (a) Eligible Applicants. – Any of the following are eligible to apply for a water
36 conservation grant under this Article for the purpose of protecting and enhancing water quality:

- 37 (1) A State agency.
38 (2) A local government unit.
39 (3) A nonprofit corporation whose primary purpose is the conservation,
40 preservation, and restoration of our State's environmental and natural
41 resources.

42 (b) Matching Requirement. – The Authority shall establish matching requirements for
43 water conservation grants awarded under this section. This requirement may be satisfied by the
44 donation of land to a public or private nonprofit conservation organization as approved by the
45 Authority. The Authority may also waive the requirement to match a water conservation grant
46 pursuant to guidelines adopted by the Authority.

47 (c) Restriction. – No water conservation grant shall be awarded under this section to
48 satisfy compensatory mitigation requirements under 33 U.S.C. § 1344 or G.S. 143-214.11.

49 (d) Withdrawal. – An award of a grant under this Article is withdrawn if the grant
50 recipient fails to enter into a construction contract for the project within one year after the date
51 of the award, unless the Authority finds that the applicant has good cause for the failure. If the

1 Authority finds good cause for a recipient's failure, the Authority must set a date by which the
2 recipient must take action or forfeit the grant.

3 **"§ 113A-265. Land conservation grants; information regarding land acquisition;**
4 **priorities.**

5 (a) Eligible Applicants. – Any of the following are eligible to apply for a land
6 conservation grant under this Article for the purpose of protecting land with outstanding natural
7 or cultural heritage value:

8 (1) The following State agencies: the Department of Environment and Natural
9 Resources, the Department of Agriculture and Consumer Services, the
10 Department of Cultural Resources, and the Wildlife Resources Commission.

11 (2) A nonprofit corporation whose primary purpose is the conservation,
12 preservation, and restoration of our State's environmental and natural
13 resources.

14 (b) Proposals. – From time to time, but at least once each year, the Secretary, the
15 Chairman of the North Carolina Wildlife Resources Commission, the Commissioner of
16 Agriculture, and the Secretary of Cultural Resources may propose to the Water and Land
17 Conservation Authority lands to be acquired by land conservation grants under subsection (c)
18 of G.S. 113A-262. For each tract or interest proposed, the Secretary, the Chairman of the North
19 Carolina Wildlife Resources Commission, the Commissioner of Agriculture, and the Secretary
20 of Cultural Resources shall provide the Authority with the following information:

21 (1) The value of the land for recreation, forestry, fish and wildlife habitat, and
22 wilderness purposes and its consistency with the plan developed pursuant to
23 the State Parks Act, the State's comprehensive plan for outdoor recreation,
24 parks, natural areas development, and wildlife management goals and
25 objectives.

26 (2) Any rare or endangered species on or near the land.

27 (3) Whether the land contains a relatively undisturbed and outstanding example
28 of a native North Carolina ecological community that is now uncommon.

29 (4) Whether the land contains a major river or tributary, watershed, wetland,
30 significant littoral, estuarine or aquatic site, or important geologic feature.

31 (5) The extent to which the land represents a type of landscape, natural feature,
32 or natural area that is not currently in the State's inventory of parks and
33 natural areas.

34 (6) Other sources of funds that may be available to assist in acquiring the land.

35 (7) The State department or division that will be responsible for managing the
36 land.

37 (8) What assurances exist that the land will not be used for purposes other than
38 those for which it is being acquired.

39 (9) Whether the site or structure is of such historical significance as to be
40 essential to the development of a balanced State program of historic
41 properties.

42 (c) Information Requests by Authority. – The Authority may request any applicant that
43 is eligible under subdivision (2) of subsection (a) of this section to submit to the Authority any
44 of the information under subdivisions (1) through (9) of subsection (b) of this section.

45 (d) Priorities. – When considering authorizing land conservation grants to acquire land
46 under subsection (c) of G.S. 113A-263, the first priority shall be the protection of land with
47 outstanding natural or cultural heritage values. Land with outstanding natural heritage values is
48 land that is identified by the North Carolina Natural Heritage Program as having State or
49 national significance. Land with outstanding cultural heritage values is land that is identified,
50 inventoried, or evaluated by the Department of Cultural Resources. The Authority shall be
51 guided by any priorities established by the Secretary, the Chairman of the Wildlife Resources

1 Commission, the Commissioner of Agriculture, and the Secretary of Cultural Resources in their
2 proposals made under subsection (a) of this section.

3 (e) Local Reimbursement. – In any county in which real property was purchased with a
4 land conservation grant as an addition to the fish and wildlife management areas and where less
5 than twenty-five percent (25%) of the land area is privately owned at the time of purchase, that
6 county and any other local taxing unit shall be annually reimbursed, for a period of 20 years,
7 from funds available to the Wildlife Resources Commission in an amount equal to the amount
8 of ad valorem taxes that would have been paid to the taxing unit if the property had remained
9 subject to taxation.

10 **"§ 113A-266. Water and Land Conservation Authority established; membership**
11 **qualifications; vacancies; meetings and meeting facilities.**

12 (a) Authority Established. – The Water and Land Conservation Authority is created
13 within the Department of Environment and Natural Resources.

14 (b) Membership. – The Water and Land Conservation Authority shall be composed of
15 nine members appointed to three-year terms as follows:

16 (1) One member appointed by the Governor to a term that expires on July 1 of
17 years that precede by one year those years that are evenly divisible by three.

18 (2) One member appointed by the Governor to a term that expires on July 1 of
19 years that follow by one year those years that are evenly divisible by three.

20 (3) One member appointed by the Governor to a term that expires on July 1 of
21 years that are evenly divisible by three.

22 (4) One member appointed by the General Assembly upon the recommendation
23 of the President Pro Tempore of the Senate to a term that expires on July 1
24 of years that precede by one year those years that are evenly divisible by
25 three.

26 (5) One member appointed by the General Assembly upon the recommendation
27 of the President Pro Tempore of the Senate to a term that expires on July 1
28 of years that follow by one year those years that are evenly divisible by
29 three.

30 (6) One member appointed by the General Assembly upon the recommendation
31 of the President Pro Tempore of the Senate to a term that expires on July 1
32 of years that are evenly divisible by three.

33 (7) One member appointed by the General Assembly upon the recommendation
34 of the Speaker of the House of Representatives to a term that expires on July
35 1 of years that precede by one year those years that are evenly divisible by
36 three.

37 (8) One member appointed by the General Assembly upon the recommendation
38 of the Speaker of the House of Representatives to a term that expires on July
39 1 of years that follow by one year those years that are evenly divisible by
40 three.

41 (9) One member appointed by the General Assembly upon the recommendation
42 of the Speaker of the House of Representatives to a term that expires on July
43 1 of years that are evenly divisible by three.

44 (c) Geographic Distribution of Members; Qualifications. – The appointment of a
45 member of the Authority may be held concurrently with any other executive or appointive
46 office, under the authority of Article VI, Section 9, of the North Carolina Constitution. When
47 appointing members of the Authority, the Governor, the President Pro Tempore of the Senate,
48 and the Speaker of the House of Representatives shall give consideration to adequate
49 representation from the various regions of the State and shall give consideration to the
50 appointment of members who are knowledgeable in any of the following areas:

51 (1) Acquisition and management of natural areas.

- 1 (2) Conservation and restoration of water quality.
2 (3) Wildlife and fisheries habitats and resources.
3 (d) Limitation on Length of Service. – No member of the Authority shall serve more
4 than two consecutive four-year terms or a total of 10 years.
5 (e) Chair. – The Governor shall appoint one member to serve as Chair of the Authority.
6 (f) Vacancies. – An appointment to fill a vacancy on the Authority created by the
7 resignation, removal, disability, or death of a member shall be for the balance of the unexpired
8 term. Vacancies in appointments made by the General Assembly shall be filled as provided in
9 G.S. 120-122.
10 (g) Frequency of Meetings. – The Authority shall meet at least twice each year and may
11 hold special meetings at the call of the Chair or a majority of the members.
12 (h) Quorum. – A majority of the membership of the Authority constitutes a quorum for
13 the transaction of business.
14 (i) Per Diem and Expenses. – Each member of the Authority shall receive no salary as
15 a result of serving on the Authority but shall receive per diem, subsistence, and travel expenses
16 in accordance with the provisions of G.S. 120-3.1, 138-5, and 138-6, as applicable.
17 (j) Meeting Facilities. – The Secretary of Environment and Natural Resources shall
18 provide meeting facilities for the Authority and its staff as requested by the Chair.
19 **§ 113A-267. Water and Land Conservation Authority; powers and duties.**
20 (a) Award Grants. – The Authority may award a grant only for a project or activity or
21 for the acquisition of land that satisfies the criteria and furthers the purposes of this Article.
22 (b) Develop Grant Criteria. – The Authority shall develop criteria for awarding grants
23 under this Article. The criteria developed shall include consideration of the following:
24 (1) The significant enhancement and conservation of water quality in the State.
25 (2) The objectives of the basinwide management plans for the State's river
26 basins and watersheds.
27 (3) The promotion of regional integrated ecological networks insofar as they
28 affect water quality.
29 (4) The specific areas targeted as being environmentally sensitive.
30 (5) The geographic distribution of funds as appropriate.
31 (6) The preservation of water resources with significant recreational or
32 economic value and uses.
33 (7) The development of a network of riparian buffer-greenways bordering and
34 connecting the State's waterways that will serve environmental, educational,
35 and recreational uses.
36 (8) Water supply availability and the public's need for resources adequate to
37 meet demand for essential water uses. Criteria developed pursuant to this
38 subdivision may include consideration of the likelihood of a proposed water
39 supply project ultimately being permitted and built.
40 (9) The preservation of natural heritage resources with significant recreational
41 or economic value and uses.
42 (c) Develop Additional Guidelines. – The Authority may develop guidelines in addition
43 to the grant criteria consistent with and as necessary to implement this Article.
44 (d) Acquisition of Land. – The Authority may acquire land by purchase, negotiation,
45 gift, or devise. Any acquisition of land by the Authority must be reviewed and approved by the
46 Council of State and the deed for the land subject to approval of the Attorney General before
47 the acquisition can become effective. In determining whether to acquire land as permitted by
48 this Article, the Authority shall consider whether the acquisition furthers the purposes of this
49 Article and may also consider recommendations from the Council. Nothing in this section shall
50 allow the Authority to acquire land under the right of eminent domain.

1 (e) Exchange of Land. – The Authority may exchange any land it acquires in carrying
2 out the powers conferred on the Authority by this Article and for purposes consistent with the
3 provisions of this Article.

4 (f) Land Management. – The Authority may designate managers or managing agencies
5 of the lands acquired under this Article.

6 (g) Tax Credit Certification. – The Authority shall develop guidelines to determine
7 whether land donated for a tax credit under G.S. 105-130.34 or G.S. 105-151.12 is suitable for
8 one of the purposes under this Article and may be certified for a tax credit.

9 (h) Rule-Making Authority. – The Authority may adopt rules to implement this Article.
10 Chapter 150B of the General Statutes applies to the adoption of rules by the Authority.

11 **"§ 113A-268. North Carolina Conservation Easement Endowment Fund.**

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

25 (b) The Authority may authorize the disbursement of the endowment investment
26 income only for activities related to stewardship of conservation easements owned by the State.

27 **"§ 113A-269. Water and Land Conservation Authority; reporting requirement.**

28 The Chair of the Authority shall report each year by December 1 to the Joint Legislative
29 Commission on Governmental Operations, the Environmental Review Commission, the Senate
30 Appropriations Committee on Natural and Economic Resources, the House of Representatives
31 Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research
32 Division of the General Assembly regarding the implementation of this Article. The report shall
33 include:

34 (1) A list of water conservation grants awarded under G.S. 113A-263 for the
35 previous 12-month period. The list shall include for each grant a description
36 of the project, the amount of the grant awarded for the project, and the total
37 cost of the project.

38 (2) A list of land conservation grants awarded under G.S. 113A-263 for the
39 previous 12-month period. The list shall include for each grant the acreage
40 of each tract, the county in which the tract is located, the amount awarded as
41 a grant to acquire the tract, and the State department or division responsible
42 for managing the tract.

43 **"§ 113A-270. Water and Land Conservation Authority; Executive Director; staff.**

44 (a) The Secretary shall select and appoint a competent person in accordance with this
45 section as Executive Director of the Authority. The Executive Director shall be charged with
46 the supervision of all activities under the jurisdiction of the Authority and shall serve as the
47 chief administrative officer of the Authority. The person selected as Executive Director shall
48 have had training and experience in conservation, protection, and management of surface water
49 resources and natural heritage resources.

50 (b) The Secretary shall provide staff to support the Water and Land Conservation Grant
51 Program under this Article.

1 **"§ 113A-271. Construction of Article.**

2 No provision of this Article shall be construed to eliminate hunting and fishing, as regulated
3 by the laws of the State of North Carolina, upon properties purchased pursuant to this Article."

4 **SECTION 14.3.(c)** Article 5A of Chapter 113 of the General Statutes and Article
5 18 of Chapter 113A of the General Statutes are repealed.

6 **SECTION 14.3.(d)** G.S. 20-79.7(b) reads as rewritten:

7 "(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate
8 and Cultural Attraction Plate Account are established within the Highway Fund. The Division
9 must credit the additional fee imposed for the special registration plates listed in subsection (a)
10 of this section among the Special Registration Plate Account (SRPA), the Collegiate and
11 Cultural Attraction Plate Account (CCAPA), the ~~Natural Heritage Trust Fund (NHTF)~~, Water
12 and Land Conservation Fund (WLCF), which is established under
13 ~~G.S. 113-77.7, G.S. 113A-262~~, and the Parks and Recreation Trust Fund, which is established
14 under G.S. 113-44.15, as follows:

15 Special Plate SRPA CCAPA ~~NHFWLCF~~ PRTF"

16 **SECTION 14.3.(e)** G.S. 20-81.12(b2)(5) reads as rewritten:

17 "(5) North Carolina State Parks. – One-half of the revenue derived from the
18 special plate shall be transferred quarterly to ~~Natural Heritage Trust Fund~~
19 ~~established under G.S. 113-77.7~~, the Water and Land Conservation Fund
20 established under G.S. 113A-262, and the remaining revenue shall be
21 transferred quarterly to the Parks and Recreation Trust Fund established
22 under G.S. 113-44.15."

23 **SECTION 14.3.(f)** G.S. 20-81.12(b7) reads as rewritten:

24 "(b7) Scenic Rivers Plates. – The Division must receive 300 or more applications for a
25 Scenic Rivers plate before the plate may be developed. The Division shall transfer quarterly the
26 money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Scenic
27 Rivers plates to the ~~Clean Water Management Trust Fund established in G.S. 113A-253~~, Water
28 and Land Conservation Fund established under G.S. 113A-262."

29 **SECTION 14.3.(g)** G.S. 126-5(c1)(21) is repealed.

30 **SECTION 14.3.(h)** G.S. 143-214.14(c) reads as rewritten:

31 "(c) Legislative Goals and Policies. – It is the goal of the General Assembly that, to the
32 extent practicable, the State shall adopt water quality protection plans that are developed and
33 implemented in cooperation and coordination with local governments and that the State shall
34 adopt water quality protection requirements that are proportional to the relative contributions of
35 pollution from all sources in terms of both the loading and proximity of those sources.
36 Furthermore, it is the goal of the General Assembly to encourage and support State-local
37 partnerships for improved water quality protection through the provision of technical and
38 financial assistance available through ~~the Clean Water Management Trust Fund~~, the Water and
39 Land Conservation Fund established under G.S. 113A-262, the Ecosystem Enhancement
40 Program, the Ecosystem Restoration Fund, water quality planning and project grant programs,
41 the State's revolving loan and grant programs for water and wastewater facilities, other funding
42 sources, and future appropriations. The Commission shall implement these goals in accordance
43 with the standards, procedures, and requirements set out in this section."

44 **SECTION 14.3.(i)** G.S. 143B-344.38(a)(8)a. and G.S. 143B-344.38(a)(8)d. are
45 repealed.

46 **SECTION 14.3.(j)** G.S. 106-887(a) reads as rewritten:

47 "(a) DuPont State Forest is designated as a State Recreational Forest. The Department
48 shall manage DuPont State Recreational Forest: (i) primarily for natural resource preservation,
49 scenic enjoyment and recreational purposes, including horseback riding, hiking, bicycling,
50 hunting, and fishing; (ii) so as to provide an exemplary model of scientifically sound,
51 ecologically based natural resource management for the social and economic benefit of the

1 forest's diverse community of users; and (iii) consistent with the grant agreement ~~between the~~
2 ~~Natural Heritage Trust Fund and the Division of Forest Resources, which grant~~that designates a
3 portion of the forest as a North Carolina Nature Preserve. In addition, the Department may use
4 the forest for the demonstration of different forest management and resource protection
5 techniques for local landowners, natural resource professionals, students, and other forest
6 visitors."

7 **SECTION 14.3.(k)** G.S. 120-123 reads as rewritten:

8 "**§ 120-123. Service by members of the General Assembly on certain boards and**
9 **commissions.**

10 No member of the General Assembly may serve on any of the following boards or
11 commissions:

12 (1) The Board of Agriculture, as established by G.S. 106-2.

13 ...

14 ~~(67) The Board of Trustees of the Natural Heritage Trust Fund, as established by~~
15 ~~G.S. 113-77.8.~~

16 (67a) The Water and Land Conservation Authority established by G.S. 113A-262.

17"

18 **SECTION 14.3.(l)** G.S. 143B-279.3(b)(18) is repealed.

19 **SECTION 14.3.(m)** The Natural Heritage Trust Fund and the Clean Water
20 Management Trust Fund shall be closed and the remaining fund balances in each fund shall be
21 transferred to the Water and Land Conservation Fund established in G.S. 113A-262, as enacted
22 by subsection (b) of this section, as provided in this subsection. It is the intent of the General
23 Assembly to honor the obligations from the Natural Heritage Trust Fund and the Clean Water
24 Management Trust Fund that were authorized prior to the effective date of this section and to
25 ensure that any tax proceeds credited to the Natural Heritage Trust Fund are used for the
26 purposes for which they were collected. The unencumbered funds transferred from the Natural
27 Heritage Trust Fund to the Water and Land Conservation Fund and any funds from the Natural
28 Heritage Trust Fund that were encumbered but become unencumbered after the effective date
29 of this section shall be used for land conservation grants under G.S. 113A-263(c), as enacted by
30 subsection (b) of this section. Any encumbered funds transferred from the Natural Heritage
31 Trust Fund to the Water and Land Conservation Fund shall be used for the purpose for which
32 the grant was awarded. The unencumbered funds transferred from the Clean Water
33 Management Trust Fund to the Water and Land Conservation Fund and any funds from the
34 Clean Water Management Trust Fund that were encumbered but become unencumbered after
35 the effective date of this section shall be used for water conservation grants under
36 G.S. 113A-263(b), as enacted by subsection (b) of this section. Any encumbered funds
37 transferred from the Clean Water Management Trust Fund to the Water and Land Conservation
38 Fund shall be used for the purpose for which the grant was awarded.

39 **SECTION 14.3.(n)** The terms for the initial appointments to the Water and Land
40 Conservation Authority established by G.S. 113A-266, as enacted by subsection (b) of this
41 section, shall commence July 1, 2013. Notwithstanding the provisions of G.S. 113A-266, as
42 enacted by subsection (b) of this section, in order to establish staggered terms, the terms for the
43 initial appointments to the Water and Land Conservation Authority made under
44 G.S. 113A-266(b)(1), (4), and (7) shall expire July 1, 2015; the terms for the initial
45 appointments to the Water and Land Conservation Authority made under G.S. 113A-266(b)(3),
46 (6), and (9) shall expire July 1, 2016; and the terms for the initial appointments to the Water
47 and Land Conservation Authority made under G.S. 113A-266(b)(2), (5), and (8) shall expire
48 July 1, 2017.

49 **SECTION 14.3.(o)** The Codifier of Statutes shall make any conforming changes in
50 Chapter 159I of the General Statutes or any other sections of the General Statutes necessary to
51 implement this section.

DEED STAMP TAX PROCEEDS CREDITED TO GENERAL FUND

SECTION 14.4.(a) G.S. 105-228.30(b) reads as rewritten:

"(b) The register of deeds of each county must remit the proceeds of the tax levied by this section to the county finance officer. The finance officer of each county must credit one-half of the proceeds to the county's general fund and remit the remaining one-half of the proceeds, less taxes refunded and the county's allowance for administrative expenses, to the Department of Revenue on a monthly basis. A county may retain two percent (2%) of the amount of tax proceeds allocated for remittance to the Department of Revenue as compensation for the county's cost in collecting and remitting the State's share of the tax. ~~Of the funds remitted to it pursuant to this section, the Department of Revenue must credit seventy five percent (75%) to the Parks and Recreation Trust Fund established under G.S. 113-44.15 and twenty five percent (25%) to the Natural Heritage Trust Fund established under G.S. 113-77.7.~~ The Department of Revenue shall credit the funds remitted to the Department of Revenue under this subsection to the General Fund."

SECTION 14.4.(b) G.S. 113-44.15(a) reads as rewritten:

"(a) Fund Created. – There is established a Parks and Recreation Trust Fund in the State Treasurer's Office. The Trust Fund shall be a ~~nonreverting~~ special revenue fund consisting of gifts and grants to the Trust Fund, ~~monies credited to the Trust Fund pursuant to G.S. 105-228.30(b), Fund~~ and other monies appropriated to the Trust Fund by the General Assembly. Investment earnings credited to the assets of the Fund shall become part of the Fund."

PARKS AND RECREATION AUTHORITY

SECTION 14.5.(a) G.S. 143B-313.2 reads as rewritten:

"§ 143B-313.2. North Carolina Parks and Recreation Authority; members; selection; compensation; meetings.

(a) Membership. – The North Carolina Parks and Recreation Authority shall consist of ~~15~~ nine members. The members shall include persons who are knowledgeable about park and recreation issues in North Carolina or with expertise in finance. In making appointments, each appointing authority shall specify under which subdivision of this subsection the person is appointed. Members shall be appointed as follows:

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

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

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

5 ~~(12) 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 (b) Terms. – Members shall serve staggered terms of office of three years. Members
8 shall serve no more than two consecutive three-year terms. After serving two consecutive
9 three-year terms, a member is not eligible for appointment to the Authority for at least one year
10 after the expiration date of that member's most recent term. Upon the expiration of a three-year
11 term, a member may continue to serve until a successor is appointed and duly qualified as
12 provided by G.S. 128-7. The terms of members appointed under subdivision (1), ~~(3a)~~, (5), ~~(7)~~,
13 or (9) of subsection (a) of this section shall expire on July 1 of years that are evenly divisible by
14 three. The terms of members appointed under subdivision (2), ~~(3b)~~, (4), ~~(8)~~, ~~or (11)~~ or (8) of
15 subsection (a) of this section shall expire on July 1 of years that follow by one year those years
16 that are evenly divisible by three. The terms of members appointed under subdivision (3), (6),
17 ~~(7a)~~, ~~(10)~~, ~~or (12)~~ or (10) of subsection (a) of this section shall expire on July 1 of years that
18 precede by one year those years that are evenly divisible by three.

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

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

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

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

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

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

37 (i) Staff. – All clerical and other services required by the North Carolina Parks and
38 Recreation Authority shall be provided by the Secretary of Environment and Natural
39 Resources."

40 **SECTION 14.5.(b)** The terms of all members of the North Carolina Parks and
41 Recreation Authority shall expire on June 30, 2013. A new Authority consisting of nine
42 members shall be appointed as provided in G.S. 143B-313.2, as amended by subsection (a) of
43 this section. This subsection becomes effective on June 30, 2013.

44 **LAKE WACCAMAW HYDRILLA ERADICATION PROJECT FUNDS**

45 **SECTION 14.6.** Of the funds appropriated to the Department of Environment and
46 Natural Resources for the Parks and Recreation Trust Fund for the 2013-2014 fiscal year, the
47 sum of two hundred fifty thousand dollars (\$250,000) shall be reallocated to the Division of
48 Water Resources of the Department of Environment and Natural Resources to be used to
49 provide the State portion of the nonfederal funds needed for the Lake Waccamaw Hydrilla
50

1 Eradication Project. This project shall be subject to the same requirements as other water
2 resources development projects under this act.
3

4 **FISHERY RESOURCE GRANT PROGRAM REPEAL**

5 **SECTION 14.7.(a)** G.S. 113-200 is repealed.

6 **SECTION 14.7.(b)** G.S. 143B-289.54(c) reads as rewritten:

7 "(c) Additional Considerations. – In making appointments to the Commission, the
8 Governor shall provide for appropriate representation of women and minorities on the
9 Commission. ~~The Governor shall make appointments to the Commission consistent with the~~
10 ~~restrictions of G.S. 113-200(g).~~"
11

12 **MARINE FISHERIES LICENSE AND PERMIT FEES; LICENSE AND PERMIT** 13 **REQUIREMENTS; FEE INCREASES FUND DMF AT-SEA OBSERVER** 14 **PROGRAM**

15 **SECTION 14.8.(a)** G.S. 113-168.1(h) reads as rewritten:

16 "(h) Replacement Licenses and Endorsements. – The Division shall issue a replacement
17 license, including any endorsements, to a licensee for a license that has not been suspended or
18 revoked. A licensee may apply for a replacement license for a license that has been lost, stolen,
19 or destroyed and shall apply for a replacement license within 30 days of a change in the
20 licensee's name or address. A licensee may apply for a replacement license in person at any
21 office of the Division or by mail to the Morehead City office of the Division. A licensee may
22 use a copy of the application for a replacement license that has been filed with the Division as a
23 temporary license until the licensee receives the replacement license. The Commission may
24 establish a fee for each type of replacement license, not to exceed ~~ten dollars (\$10.00), twelve~~
25 ~~dollars and fifty cents (\$12.50),~~ that compensates the Division for the administrative costs
26 associated with issuing the replacement license."
27

28 **SECTION 14.8.(b)** G.S. 113-168.2 reads as rewritten:

29 **"§ 113-168.2. Standard Commercial Fishing License.**

30 (a) Requirement. – Except as otherwise provided in this Article, it is unlawful for any
31 person to engage in a commercial fishing operation in the coastal fishing waters without
32 holding a SCFL issued by the Division. A person who works as a member of the crew of a
33 vessel engaged in a commercial fishing operation under the direction of a person who holds a
34 valid SCFL is not required to hold a SCFL. A person who holds a SCFL is not authorized to
35 take shellfish unless the SCFL is endorsed as provided in ~~G.S. 113-168.5(d) or the person holds~~
~~a shellfish license issued pursuant to G.S. 113-169.2.~~ G.S. 113-168.5.

36 (a1) Use of Vessels. – The holder of a SCFL is authorized to use only one vessel in a
37 commercial fishing operation at any given time. The Commission may adopt a rule to exempt
38 from this requirement a person in command of a vessel that is auxiliary to a vessel engaged in a
39 pound net operation, long-haul operation, beach seine operation, or menhaden operation. A
40 person who works as a member of the crew of a vessel engaged in a mechanical shellfish
41 operation under the direction of a person who holds a valid SCFL with a shellfish endorsement
42 is not required to hold a shellfish license.

43 (b) through (d) Repealed by Session Laws 1998-225, s. 4.11.

44 (e) Fees. – The annual SCFL fee for a resident of this State shall be ~~two hundred dollars~~
45 ~~(\$200.00)~~ two hundred fifty dollars (\$250.00). The annual SCFL fee for a person who is not a
46 resident of this State shall be ~~eight hundred dollars (\$800.00) or~~ the amount charged to a
47 resident of this State in the nonresident's ~~state, whichever is less.~~ state. In no event, however,
48 may the fee be less than ~~two hundred dollars (\$200.00)~~ two hundred fifty dollars (\$250.00). For
49 purposes of this subsection, a "resident of this State" is a person who is a resident within the
50 meaning of:

- 1 (1) Sub-subdivisions a. through d. of G.S. 113-130(4) and who filed a State
2 income tax return as a resident of North Carolina for the previous calendar
3 or tax year, or
4 (2) G.S. 113-130(4)e.
- 5 (f) Assignment. – The holder of a SCFL may assign the SCFL to any individual who is
6 eligible to hold a SCFL under this Article. It is unlawful for the holder of a SCFL to assign a
7 shellfish endorsement of a SCFL to any individual who is not a resident of this State. The
8 assignment shall be in writing on a form provided by the Division and shall include the name of
9 the licensee, the license number, any endorsements, the assignee's name, mailing address,
10 physical or residence address, and the duration of the assignment. If a notarized copy of an
11 assignment is not filed with the Morehead City office of the Division within five days of the
12 date of the assignment, the assignment shall expire. It is unlawful for the assignee of a SCFL to
13 assign the SCFL. The assignment shall terminate:
- 14 (1) Upon written notification by the assignor to the assignee and the Division
15 that the assignment has been terminated.
16 (2) Upon written notification by the estate of the assignor to the assignee and the
17 Division that the assignment has been terminated.
18 (3) If the Division determines that the assignee is operating in violation of the
19 terms and conditions applicable to the assignment.
20 (4) If the assignee becomes ineligible to hold a license under this Article.
21 (5) Upon the death of the assignee.
22 (6) If the Division suspends or revokes the assigned SCFL.
23 (7) At the end of the license year.
- 24 (g) Transfer. – A SCFL may be transferred only by the Division. A SCFL may be
25 transferred pursuant to rules adopted by the Commission or upon the request of:
- 26 (1) A licensee, from the licensee to a member of the licensee's immediate family
27 who is eligible to hold a SCFL under this Article.
28 (2) The administrator or executor of the estate of a deceased licensee, to the
29 administrator or executor of the estate if a surviving member of the deceased
30 licensee's immediate family is eligible to hold a SCFL under this Article.
31 The administrator or executor must request a transfer under this subdivision
32 within six months after the administrator or executor qualifies under Chapter
33 28A of the General Statutes. An administrator or executor who holds a
34 SCFL under this subdivision may, for the benefit of the estate of the
35 deceased licensee:
36 a. Engage in a commercial fishing operation under the SCFL if the
37 administrator or executor is eligible to hold a SCFL under this
38 Article.
39 b. Assign the SCFL as provided in subsection (f) of this section.
40 c. Renew the SCFL as provided in G.S. 113-168.1.
- 41 (3) An administrator or executor to whom a SCFL was transferred pursuant to
42 subdivision (2) of this subsection, to a surviving member of the deceased
43 licensee's immediate family who is eligible to hold a SCFL under this
44 Article.
45 (4) The surviving member of the deceased licensee's immediate family to whom
46 a SCFL was transferred pursuant to subdivision (3) of this subsection, to a
47 third-party purchaser of the deceased licensee's fishing vessel.
48 (5) A licensee who is retiring from commercial fishing, to a third-party
49 purchaser of the licensee's fishing vessel.

1 (h) Identification as Commercial Fisherman. – The receipt of a current and valid SCFL
2 or shellfish license issued by the Division shall serve as proper identification of the licensee as
3 a commercial fisherman.

4 (i) Record-Keeping Requirements. – The fish dealer shall record each transaction at the
5 time and place of landing on a form provided by the Division. The transaction form shall
6 include the information on the SCFL or shellfish license, the quantity of the fish, the identity of
7 the fish dealer, and other information as the Division deems necessary to accomplish the
8 purposes of this Subchapter. The person who records the transaction shall provide a completed
9 copy of the transaction form to the Division and to the other party of the transaction. The
10 Division's copy of each transaction form shall be transmitted to the Division by the fish dealer
11 on or before the tenth day of the month following the transaction."

12 **SECTION 14.8.(c)** G.S. 113-168.3(b) reads as rewritten:

13 "(b) Eligibility; Fees. – Any individual who is 65 years of age or older and who is
14 eligible for a SCFL under G.S. 113-168.2 may apply for either a SCFL or RSCFL. An applicant
15 for a RSCFL shall provide proof of age at the time the application is made. The annual fee for a
16 RSCFL for a resident of this State shall be ~~one hundred dollars (\$100.00)~~ one hundred
17 twenty-five dollars (\$125.00). The annual fee for a RSCFL for a person who is not a resident of
18 this State shall be ~~eight hundred dollars (\$800.00) or the amount charged to a resident of this~~
19 ~~State in the nonresident's state, whichever is less. In no event, however, shall the fee be less~~
20 ~~than one hundred dollars (\$100.00)~~ one hundred sixty-two dollars and fifty cents (\$162.50). For
21 purposes of this subsection, a "resident of this State" is a person who is a resident within the
22 meaning of:

- 23 (1) Sub-subdivisions a. through d. of G.S. 113-130(4) and who filed a State
24 income tax return as a resident of North Carolina for the previous calendar
25 or tax year, or
26 (2) G.S. 113-130(4)e."

27 **SECTION 14.8.(d)** G.S. 113-168.4(c) reads as rewritten:

28 "(c) A person who organizes a recreational fishing tournament may sell fish taken in
29 connection with the tournament pursuant to a recreational fishing tournament license to sell
30 fish. A person who organizes a recreational fishing tournament may obtain a recreational
31 fishing tournament license to sell fish upon application to the Division and payment of a fee of
32 ~~one hundred dollars (\$100.00)~~ one hundred twenty-five dollars (\$125.00). It is unlawful for any
33 person licensed under this subsection to sell fish to any person other than a fish dealer licensed
34 under G.S. 113-169.3 unless the seller is also a licensed fish dealer. A recreational fishing
35 tournament is an organized fishing competition occurring within a specified time period not to
36 exceed one week and that is not a commercial fishing operation. Gross proceeds from the sale
37 of fish may be used only for charitable, religious, educational, civic, or conservation purposes
38 and shall not be used to pay tournament expenses."

39 **SECTION 14.8.(e)** G.S. 113-168.6 reads as rewritten:

40 **"§ 113-168.6. Commercial fishing vessel registration.**

41 (a) As used in this subsection, a North Carolina vessel is a vessel that has its primary
42 situs in the State. A vessel has its primary situs in the State if:

- 43 (1) A certificate of number has been issued for the vessel under Article 1 of
44 Chapter 75A of the General Statutes;
45 (2) A certificate of title has been issued for the vessel under Article 4 of Chapter
46 75A of the General Statutes; or
47 (3) A certification of documentation has been issued for the vessel that lists a
48 home port in the State under 46 U.S.C. § 12101, et seq., as amended.

49 (b) The owner of a vessel used in a commercial fishing operation in the coastal fishing
50 waters of the State or a North Carolina vessel used to land or sell fish in the State shall register
51 the vessel with the Division. It is unlawful to use a vessel that is not registered with the

1 Division in a commercial fishing operation or a for-hire operation in the coastal fishing waters
2 of the State. It is unlawful to use a North Carolina vessel that is not registered with the Division
3 to land or sell fish in the State. No registration is required for a vessel of any length that does
4 not have a motor if the vessel is used only in connection with another vessel that is properly
5 registered.

6 (b1) The vessel owner at the time of application for registration under subsection (b) of
7 this section shall obtain either a commercial vessel endorsement if the vessel is intended to be
8 used primarily for the harvest of fish for sale, a for-hire endorsement if the vessel is intended to
9 be used primarily for for-hire activities, or both endorsements if the vessel is intended to be
10 engaged in both activities. The owner of a vessel applying for a commercial fishing vessel
11 registration with a for-hire endorsement must affirm liability coverage and knowledge of
12 applicable United States Coast Guard safety requirements.

13 (b2) Every owner who obtains a commercial fishing vessel registration with a for-hire
14 endorsement shall submit to the Division logbooks summarizing catch and effort statistical data
15 to the Division. The Commission may adopt rules that determine means and methods to satisfy
16 the requirements of this subsection.

17 (c) The annual fee for a commercial fishing vessel registration shall be determined by
18 the length of the vessel and shall be in addition to the fee for other licenses issued under this
19 Article. The length of a vessel shall be determined by measuring the distance between the ends
20 of the vessel along the deck and through the cabin, excluding the sheer. The annual fee for a
21 commercial fishing vessel registration is:

- 22 (1) ~~One dollar (\$1.00)~~ One dollar and twenty-five cents (\$1.25) per foot for a
23 vessel not over 18 feet in length.
24 (2) ~~One dollar and fifty cents (\$1.50)~~ One dollar and ninety cents (\$1.90) per
25 foot for a vessel over 18 feet but not over 38 feet in length.
26 (3) ~~Three dollars (\$3.00)~~ Three dollars and seventy-five cents (\$3.75) per foot
27 for a vessel over 38 feet but not over 50 feet in length.
28 (4) ~~Six dollars (\$6.00)~~ Seven dollars and fifty cents (\$7.50) per foot for a vessel
29 over 50 feet in length.

30 (d) A vessel may be registered at any office of the Division. A commercial fishing
31 vessel registration expires on the last day of the license year.

32 (e) Within 30 days of the date on which the owner of a registered vessel transfers
33 ownership of the vessel, the new owner of the vessel shall notify the Division of the change in
34 ownership and apply for a replacement commercial fishing vessel registration. An application
35 for a replacement commercial fishing vessel registration shall be accompanied by proof of the
36 transfer of the vessel. The provisions of G.S. 113-168.1(h) apply to a replacement commercial
37 fishing vessel registration."

38 **SECTION 14.8.(f)** G.S. 113-169.1 reads as rewritten:

39 **"§ 113-169.1. Permits for gear, equipment, and other specialized activities authorized.**

40 (a) The Commission may adopt rules to establish permits for gear, equipment, and
41 specialized activities, including commercial fishing operations that do not involve the use of a
42 vessel and transplanting oysters or clams. The Commission may establish a fee for each permit
43 established pursuant to this subsection in an amount that compensates the Division for the
44 administrative costs associated with the permit but that does not exceed one hundred dollars
45 (\$100.00) per permit.

46 (b) The Commission may adopt rules to establish gear specific permits to take striped
47 bass from the Atlantic Ocean and to limit the number and type of these permits that may be
48 issued to a person. The Commission may establish a fee for each permit established pursuant to
49 this subsection in an amount that compensates the Division for the administrative costs
50 associated with the permit but that does not exceed ~~ten dollars (\$10.00)~~ thirty dollars (\$30.00)
51 per permit.

1 (c) To ensure an orderly transition from one permit year to the next, the Division may
2 issue a permit prior to July 1 of the permit year for which the permit is valid. Revenue that the
3 Division receives for the issuance of a permit prior to the beginning of a permit year shall not
4 revert at the end of the fiscal year in which the revenue is received and shall be credited and
5 available to the Division for the permit year in which the permit is valid."

6 **SECTION 14.8.(g)** G.S. 113-169.2 reads as rewritten:

7 **"§ 113-169.2. Shellfish license for North Carolina residents without a SCFL.**

8 (a) License or Endorsement Necessary to Take or Sell ~~Shellfish~~Shellfish Taken by
9 Hand Methods. – It is unlawful for an individual to take shellfish from the public or private
10 grounds of the State ~~by mechanical means~~ or as part of a commercial fishing operation by ~~any~~
11 ~~means~~hand methods without holding either a shellfish license or a shellfish endorsement of a
12 SCFL. A North Carolina resident who seeks only to take shellfish by hand methods and sell
13 such shellfish shall be eligible to obtain a shellfish license without holding a SCFL. The
14 shellfish license authorizes the licensee to sell shellfish.

15 (a1) License Necessary to Take or Sell Shellfish Taken by Mechanical Means. – Subject
16 to subsection (i) of this section, an individual who takes shellfish from the public or private
17 grounds of the State by mechanical means must obtain a SCFL under the provisions of
18 G.S. 113-168.2.

19 (b) Repealed by Session Laws 1998-225, s. 4.17, effective July 1, 1999.

20 (c) Fees. – Shellfish licenses issued under this section shall be issued annually upon
21 payment of a fee of ~~twenty-five dollars (\$25.00)~~thirty-one dollars and twenty-five cents
22 (\$31.25) upon proof that the license applicant is a North Carolina resident.

23 (d) License Available for Inspection. – It is unlawful for any individual to take shellfish
24 as part of a commercial fishing operation from the public or private grounds of the State
25 without having ready at hand for inspection a current and valid shellfish license issued to the
26 licensee personally and bearing the licensee's correct name and address. It is unlawful for any
27 individual taking or possessing freshly taken shellfish to refuse to exhibit the individual's
28 license upon the request of an officer authorized to enforce the fishing laws.

29 (e) Repealed by Session Laws 1998-225, s. 4.17, effective July 1, 1999.

30 (f) Name or Address Change. – In the event of a change in name or address or upon
31 receipt of an erroneous shellfish license, the licensee shall, within 30 days, apply for a
32 replacement shellfish license bearing the correct name and address. Upon a showing by the
33 individual that the name or address change occurred within the past 30 days, the trial court or
34 prosecutor shall dismiss any charges brought pursuant to this subsection.

35 (g) Transfer Prohibited. – It is unlawful for an individual issued a shellfish license to
36 transfer or offer to transfer the license, either temporarily or permanently, to another. It is
37 unlawful for an individual to secure or attempt to secure a shellfish license from a source not
38 authorized by the Commission.

39 (h) Exemption. – Persons under 16 years of age are exempt from the license
40 requirements of this section if accompanied by a parent, grandparent, or guardian who is in
41 compliance with the requirements of this section or if in possession of a parent's, grandparent's
42 or guardian's shellfish license.

43 (i) Taking Shellfish Without a License for Personal Use. – Shellfish may be taken
44 without a license for personal use in quantities established by rules of the Marine Fisheries
45 Commission."

46 **SECTION 14.8.(h)** G.S. 113-169.3(e) reads as rewritten:

47 "(e) Application Fee for New Fish Dealers. – An applicant for a new fish dealer license
48 shall pay a nonrefundable application fee of ~~fifty dollars (\$50.00)~~sixty-two dollars and fifty
49 cents (\$62.50) in addition to the license category fees set forth in this section."

50 **SECTION 14.8.(i)** G.S. 113-169.3(f) reads as rewritten:

1 "(f) License Category Fees. – Every fish dealer subject to licensing requirements shall
2 secure an annual license at each established location for each of the following activities
3 transacted there, upon payment of the fee set out:

4 (1) Dealing in oysters: ~~\$50.00;~~\$62.50.

5 (2) Dealing in scallops: ~~\$50.00;~~\$62.50.

6 (3) Dealing in clams: ~~\$50.00;~~\$62.50.

7 (4) Dealing in hard or soft crabs: ~~\$50.00;~~\$62.50.

8 (5) Dealing in shrimp, including bait: ~~\$50.00;~~\$62.50.

9 (6) Dealing in finfish, including bait: ~~\$50.00;~~\$62.50.

10 (7) Operating menhaden or other fish-dehydrating or oil-extracting processing
11 plants: ~~\$50.00;~~or \$62.50.

12 (8) Consolidated license (all categories): ~~\$300.00;~~\$375.00."

13 **SECTION 14.8.(j)** G.S. 113-169.4 reads as rewritten:

14 **"§ 113-169.4. Licensing of ocean fishing piers; fees.**

15 (a) The owner or operator of an ocean fishing pier within the coastal fishing waters who
16 charges the public a fee to fish in any manner from the pier shall secure a current and valid pier
17 license from the Division. An application for a pier license shall disclose the names of all
18 parties involved in the pier operations, including the owner of the property, owner of the pier if
19 different, and all leasehold or other corporate arrangements, and all persons with a substantial
20 financial interest in the pier.

21 (b) Within 30 days following a change of ownership of a pier, or a change as to the
22 manager, the manager or new manager shall secure a replacement pier license as provided in
23 G.S. 113-168.1(h).

24 (c) Pier licenses are issued upon payment of ~~fifty cents (50¢)~~four dollars and fifty cents
25 (\$4.50) per linear foot, to the nearest foot, that the pier extends into coastal fishing waters
26 beyond the mean high waterline. The length of the pier shall be measured to include all
27 extensions of the pier.

28 (d) The manager who secures the pier license shall be the individual with the duty of
29 executive-level supervision of pier operations.

30 (e) The pier license issued under this section authorizes any individual who does not
31 hold a Coastal Recreational Fishing License under Article 14B or Article 25A of this Chapter
32 to engage in recreational fishing while on the pier."

33 **SECTION 14.8.(k)** G.S. 113-169.5 reads as rewritten:

34 "(b) The fee for a land or sell license for a vessel not having its primary situs in North
35 Carolina is ~~two hundred dollars (\$200.00);~~two hundred fifty dollars (\$250.00), or an amount
36 equal to the nonresident fee charged by the nonresident's state, whichever is greater. Persons
37 aboard vessels having a primary situs in a jurisdiction that would allow North Carolina vessels
38 without restriction to land or sell their catch, taken outside the jurisdiction, may land or sell
39 their catch in the State without complying with this section if the persons are in possession of a
40 valid license from their state of residence."

41 **SECTION 14.8.(l)** G.S. 113-171.1(b) reads as rewritten:

42 "(b) License. – Before an aircraft is used as a spotter plane in a commercial fishing
43 operation, the owner or operator of the aircraft must obtain a license for the aircraft from the
44 Division. The fee for a license for a spotter plane is ~~one hundred dollars (\$100.00);~~one hundred
45 twenty-five dollars (\$125.00). An applicant for a license for a spotter plane shall include in the
46 application the identity, either by boat or by company, of the specific commercial fishing
47 operations in which the spotter plane will be used during the license year. If, during the course
48 of the license year, the aircraft is used as a spotter plane in a commercial fishing operation that
49 is not identified in the original license application, the owner or operator of the aircraft shall
50 amend the license application to add the identity of the additional commercial fishing
51 operation."

1 **SECTION 14.8.(m)** G.S. 113-173(f) reads as rewritten:

2 "(f) Duration; Fees. – The RCGL shall be valid for a one-year period from the date of
3 purchase. The fee for a RCGL for a North Carolina resident shall be ~~thirty-five dollars~~
4 ~~(\$35.00)~~ forty-three dollars and seventy-five cents (\$43.75). The fee for a RCGL for an
5 individual who is not a North Carolina resident shall be ~~two hundred fifty dollars~~
6 ~~(\$250.00)~~ three hundred twelve dollars and fifty cents (\$312.50)."

7 **SECTION 14.8.(n)** G.S. 113–174.3 reads as rewritten:

8 "**§ 113-174.3. ~~For Hire Blanket CRFL.~~ For-Hire Boat Licenses.**

9 (a) License.—~~A person who operates a for hire boat may purchase a For Hire Blanket~~
10 ~~CRFL issued by the Division for the for hire boat. A For Hire Blanket CRFL authorizes all~~
11 ~~individuals on the for hire boat who do not hold a license issued under this Article or Article~~
12 ~~25A of this Chapter to engage in recreational fishing in coastal fishing waters that are not joint~~
13 ~~fishing waters. A For Hire Blanket CRFL does not authorize individuals to engage in~~
14 ~~recreational fishing in joint fishing waters or inland fishing waters. A For Hire Blanket CRFL is~~
15 ~~valid for a period of one year from the date of issuance. The fee for a For Hire Blanket CRFL~~
16 ~~is:~~

17 (1) ~~Two hundred fifty dollars (\$250.00) for a vessel that will carry six or fewer~~
18 ~~passengers.~~

19 (2) ~~Three hundred fifty dollars (\$350.00) for a vessel that will carry greater than~~
20 ~~six passengers.~~

21 (b) Implementation.—~~Except as provided in this section and G.S. 113-174.2(d), each~~
22 ~~individual on board a for hire boat engaged in recreational fishing, other than crew members~~
23 ~~who do not engage in recreational fishing, must hold a license issued under this Article or~~
24 ~~Article 25A of this Chapter. An owner, operator, or crew member of a for hire boat is not~~
25 ~~responsible for the licensure of a customer fishing from the boat.~~

26 (c) License. – It is unlawful for a person to engage in a for-hire operation without
27 having obtained one of the following licenses issued by the Division:

28 (1) Blanket For-Hire Captain's CRFL. – This license allows individuals properly
29 licensed by the United States Coast Guard to carry passengers on any vessel
30 with a commercial vessel registration with a for-hire endorsement. A
31 Blanket For-Hire Captains CRFL authorizes all individuals on the for-hire
32 boat who do not hold a license issued under this Article or Article 25A of
33 this Chapter to engage in recreational fishing in coastal fishing waters that
34 are not joint fishing waters. The resident fees for a Blanket For-Hire
35 Captain's CRFL are two hundred fifty dollars (\$250.00) for a boat carrying
36 six or fewer passengers and three hundred fifty dollars (\$350.00) for a boat
37 carrying more than six passengers. The nonresident fees for a Blanket
38 For-Hire Captain's CRFL are three hundred twelve dollars and fifty cents
39 (\$312.50) for a boat carrying six or fewer passengers and four hundred
40 thirty-seven dollars and fifty cents (\$437.50) for a boat carrying more than
41 six passengers. Any boat whose operator is licensed under this subdivision
42 and that is engaged in for-hire fishing must obtain a Commercial Fishing
43 Vessel Registration with a for-hire endorsement.

44 (2) Blanket For-Hire Boat CRFL. – This license allows any United States Coast
45 Guard licensed operator to carry passengers aboard the licensed vessel. A
46 Blanket For-Hire Boat CRFL authorizes all individuals on the for-hire boat
47 who do not hold a license issued under this Article or Article 25A of this
48 Chapter to engage in recreational fishing in coastal fishing waters that are
49 not joint fishing waters. The resident fees for a Blanket For-Hire Captain's
50 CRFL are two hundred fifty dollars (\$250.00) for a boat carrying six or
51 fewer passengers and three hundred fifty dollars (\$350.00) for a boat

1 carrying more than six passengers. The nonresident fees for a Blanket
 2 For-Hire Captain's CRFL are three hundred twelve dollars and fifty cents
 3 (\$312.50) for a boat carrying six or fewer passengers and four hundred
 4 thirty-seven dollars and fifty cents (\$437.50) for a boat carrying more than
 5 six passengers. Any boat whose operator is licensed under this subdivision
 6 and that is engaged in for-hire fishing is not required to obtain a Commercial
 7 Fishing Vessel Registration with a for-hire endorsement.

8 (3) Non-Blanket For-Hire Boat License. – This license allows any United States
 9 Coast Guard licensed operator to carry passengers aboard the licensed boat.
 10 This license does not authorize individuals aboard the boat to engage in
 11 recreational fishing unless they hold an individual CRFL issued under this
 12 Article or Article 25A of this Chapter. The fee for the Non-Blanket For-Hire
 13 Boat License is twenty-five dollars (\$25.00) for a boat operated by a resident
 14 operator and thirty-seven dollars and fifty cents (\$37.50) for a boat operated
 15 by a nonresident operator. Any boat whose operator is licensed under this
 16 subdivision and that is engaged in for-hire fishing is not required to obtain a
 17 Commercial Fishing Vessel Registration with a for-hire endorsement.

18 (d) A license issued under this section does not authorize individuals to engage in
 19 recreational fishing in joint fishing waters or inland fishing waters. All for-hire licenses expire
 20 on the last day of the license year."

21 **SECTION 14.8.(o)** G.S. 113-174.4 is repealed.

22 **SECTION 14.8.(p)** G.S. 113–182.1(b) reads as rewritten:

23 "(b) The goal of the plans shall be to ensure the long-term viability of the State's
 24 commercially and recreationally significant species or fisheries. Each plan shall be designed to
 25 reflect fishing practices so that one plan may apply to a specific fishery, while other plans may
 26 be based on gear or geographic areas. Each plan shall:

27 ...

28 (5) Specify a time period, not to exceed two years from the date of the adoption
 29 of the plan, ~~for ending to end~~ overfishing. ~~This subdivision shall only apply~~
 30 ~~to a plan for a fishery that is not producing a sustainable harvest.~~ This
 31 subdivision shall not apply if the Fisheries Director determines that the
 32 biology of the fish, environmental conditions, or lack of sufficient data make
 33 implementing the requirements of this subdivision incompatible with
 34 professional standards for fisheries management.

35"

36 **SECTION 14.8.(q)** G.S. 113-203 is amended by adding two new subsections to
 37 read:

38 "(f) The Commission may establish a fee for each permit established pursuant to this
 39 subsection in an amount that compensates the Division for the administrative costs associated
 40 with the permit but that does not exceed one hundred dollars (\$100.00) per permit.

41 (g) Advance Sale of Permits; Permit Revenue. – To ensure an orderly transition from
 42 one permit year to the next, the Division may issue a permit prior to July 1 of the permit year
 43 for which the permit is valid. Revenue that the Division receives for the issuance of a permit
 44 prior to the beginning of a permit year shall not revert at the end of the fiscal year in which the
 45 revenue is received and shall be credited and available to the Division for the permit year in
 46 which the permit is valid."

47 **SECTION 14.8.(r)** G.S. 113–210 is amended by adding two new subsections to
 48 read:

49 "(l) Fees. – Under the Dock Oyster Culture Permit shall be issued annually upon
 50 payment of a fee of one hundred dollars (\$100.00).

1 (m) Advance Sale of Permits; Permit Revenue. – To ensure an orderly transition from
2 one permit year to the next, the Division may issue a permit prior to July 1 of the permit year
3 for which the permit is valid. Revenue that the Division receives for the issuance of a permit
4 prior to the beginning of a permit year shall not revert at the end of the fiscal year in which the
5 revenue is received and shall be credited and available to the Division for the permit year in
6 which the permit is valid."

7 **SECTION 14.8.(s)** G.S. 113–221.2 reads as rewritten:

8 "**§ 113-221.2. Additional rules to establish sanitation requirements for scallops, shellfish,**
9 **and ~~erustacea~~ crustacea; permits and permit fees authorized.**

10 (a) Authority to Adopt Certain Rules and Establish Permits. – For the protection of the
11 public health, the Marine Fisheries Commission shall adopt rules establishing sanitation
12 requirements for the harvesting, processing and handling of scallops, shellfish, and crustacea of
13 in-State origin. The rules of the Marine Fisheries Commission may also regulate scallops,
14 shellfish, and crustacea shipped into North Carolina. The Department is authorized to enforce
15 the rules and may issue and revoke permits according to the rules. The Department is
16 authorized to establish a fee for each permit not to exceed one hundred dollars (\$100.00).

17 (b) Advance Sale of Permits; Permit Revenue. – To ensure an orderly transition from
18 one permit year to the next, the Division may issue a permit prior to July 1 of the permit year
19 for which the permit is valid. Revenue that the Division receives for the issuance of a permit
20 prior to the beginning of a permit year shall not revert at the end of the fiscal year in which the
21 revenue is received and shall be credited and available to the Division for the permit year in
22 which the permit is valid."

23 **SECTION 14.8.(t)** G.S. 143B-289.52(d1) reads as rewritten:

24 "(d1) The Commission may regulate participation in a fishery that is subject to a federal
25 fishery management plan if that plan imposes a quota on the State for the harvest or landing of
26 fish in the fishery. ~~If the Commission regulates participation in a fishery under this subsection,~~
27 ~~the Division may issue a license to participate in the fishery to a person who:~~

- 28 (1) ~~Held a valid license issued by the Division to harvest, land, or sell fish~~
29 ~~during at least two of the three license years immediately preceding the date~~
30 ~~adopted by the Commission to determine participation in the fishery; and~~
31 (2) ~~Participated in the fishery during at least two of those license years by~~
32 ~~landing in the State at least the minimum number of pounds of fish adopted~~
33 ~~by the Commission to determine participation in the fishery. The~~
34 ~~Commission may use any additional criteria aside from holding a Standard~~
35 ~~Commercial Fishing License to develop limited entry fisheries. The~~
36 ~~Commission may establish a fee for each license established pursuant to this~~
37 ~~subsection in an amount that does not exceed five hundred dollars~~
38 ~~(\$500.00)."~~

39 **SECTION 14.8.(u)** G.S. 143B-289.52 is amended by adding a new subsection to
40 read:

41 "(d2) To ensure an orderly transition from one permit year to the next, the Division may
42 issue a permit prior to July 1 of the permit year for which the permit is valid. Revenue that the
43 Division receives for the issuance of a permit prior to the beginning of a permit year shall not
44 revert at the end of the fiscal year in which the revenue is received and shall be credited and
45 available to the Division for the permit year in which the permit is valid."

46 **SECTION 14.8.(v)** The Division of Marine Fisheries of the Department of
47 Environment and Natural Resources shall seek the involvement of the commercial fishing
48 industry in North Carolina in the Division's development of a plan to determine a source of
49 funding necessary to support the Marine Fisheries At-Sea Observer Program that is in addition
50 to the fee increases under this section. As part of this effort, the Division of Marine Fisheries
51 shall conduct at least three public hearings in different coastal county locations to seek the

1 input of, and receive comments of potential additional recurring funding sources from, the
2 individuals involved in the commercial fishing industry. The Division shall receive written
3 comments at the public hearings and take minutes of the public hearings. The minutes shall be
4 made available to the public on the Department's Internet Web site.

5 **SECTION 14.8.(w)** Following the public hearings under subsection (v) of this
6 section and the Division's consideration of written and oral comments resulting from the public
7 hearings, the Division of Marine Fisheries shall submit its plan for an additional recurring
8 funding source to support the Marine Fisheries At-Sea Observer Program to the Marine
9 Fisheries Commission. The Marine Fisheries Commission shall vote on whether it endorses the
10 plan.

11 **SECTION 14.8.(x)** No later than March 1, 2014, the Marine Fisheries Commission
12 shall submit a report to the Senate Appropriations Committee on Natural and Economic
13 Resources, the House of Representatives Appropriations Subcommittee on Natural and
14 Economic Resources, and the Fiscal Research Division. This report shall include the results of
15 the Commission's vote under subsection (w) of this section and its findings and
16 recommendations for an additional source of funding necessary to support the Marine Fisheries
17 At-Sea Observer Program in the event the Commission votes against endorsing the plan.

18 **SECTION 14.8.(y)** The Division of Marine Fisheries shall use the proceeds it
19 receives as a result of the fee increases under this section to provide support for the 2014-2015
20 fiscal year for the Marine Fisheries At-Sea Observer Program. In addition, the Division of
21 Marine Fisheries shall provide available funds for the 2014-2015 fiscal year to provide any
22 additional support that is needed to continue the Marine Fisheries At-Sea Observer Program.
23

24 **MARINE RESOURCES FUND AND MARINE RESOURCES ENDOWMENT FUND** 25 **DISBURSEMENTS**

26 **SECTION 14.9.(a)** G.S. 113-175.1(b) reads as rewritten:

27 "(b) The State Treasurer shall hold the Marine Resources Fund separate and apart from
28 all other moneys, funds, and accounts. The State Treasurer shall invest the assets of the Marine
29 Resources Fund in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3, and all
30 marine resources investment income shall be deposited to the credit of the Marine Resources
31 Fund. The State Treasurer shall disburse the principal of the Marine Resources Fund and
32 marine resources investment income only upon the written direction of ~~both~~ the Marine
33 Fisheries Commission and the Wildlife Resources Commission." Commission."

34 **SECTION 14.9.(b)** G.S. 113-175.1(c) reads as rewritten:

35 "(c) The Marine Fisheries Commission ~~and the Wildlife Resources Commission~~ may
36 authorize the disbursement of the principal of the Marine Resources Fund and marine resources
37 investment income only to manage, protect, restore, develop, cultivate, conserve, and enhance
38 the marine resources of the State. The Marine Fisheries Commission ~~and the Wildlife~~
39 ~~Resources Commission~~ are is encouraged to consider supporting the Oyster Sanctuary Program
40 managed by the Division of Marine Fisheries. The Marine Fisheries Commission ~~and the~~
41 ~~Wildlife Resources Commission~~ may not authorize the disbursement of the principal of the
42 Marine Resources Fund and marine resources investment income to establish positions without
43 specific authorization from the General Assembly. All proposals to the Marine Fisheries
44 Commission ~~and the Wildlife Resources Commission~~ for the disbursement of funds from the
45 Marine Resources Fund shall be made by and through the Fisheries Director. Prior to
46 authorizing disbursements from the Marine Resources Fund, the Marine Fisheries Commission
47 shall consult with the Wildlife Resources Commission about these proposals. Expenditure of
48 the assets of the Marine Resources Fund shall be made through the State budget accounts of the
49 Division of Marine Fisheries in accordance with the provisions of the Executive Budget Act.
50 The Marine Resources Fund is subject to the oversight of the State Auditor pursuant to Article
51 5A of Chapter 147 of the General Statutes."

1 **SECTION 14.9.(c)** G.S. 113-175.5(b) reads as rewritten:

2 "(b) The State Treasurer shall hold the Endowment Fund separate and apart from all
3 other moneys, funds, and accounts. The State Treasurer shall invest the assets of the
4 Endowment Fund in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3. The
5 State Treasurer shall disburse the endowment investment income only upon the written
6 direction of both the Marine Fisheries ~~Commission and the Wildlife Resources~~
7 ~~Commission.~~"

8 **SECTION 14.9.(d)** G.S. 113-175.5(c) reads as rewritten:

9 "(c) Subject to the limitations set out in subsection (d) of this section, the Marine
10 Fisheries Commission ~~and the Wildlife Resources Commission~~ may authorize the disbursement
11 of endowment investment income only to manage, protect, restore, develop, cultivate,
12 conserve, and enhance the marine resources of the State. The Marine Fisheries Commission
13 ~~and the Wildlife Resources Commission~~ may not authorize the disbursement of endowment
14 investment income to establish positions without specific authorization from the General
15 Assembly. All proposals to the Marine Fisheries Commission ~~and the Wildlife Resources~~
16 ~~Commission~~ for the disbursement of funds from the Endowment Fund shall be made by and
17 through the Fisheries Director. Prior to authorizing disbursements from the Marine Resources
18 Endowment Fund, the Marine Fisheries Commission shall consult with the Wildlife Resources
19 Commission about these proposals."

21 **MARINE FISHERIES ENDOWMENT FUND REPEALED**

22 **SECTION 14.10.** G.S. 143B-289.58 is repealed.

24 **BOATING SAFETY ENFORCEMENT AGREEMENT**

25 **SECTION 14.11.(a)** The Director of the Division of Marine Fisheries of the
26 Department of Environment and Natural Resources and the Director of the Wildlife Resources
27 Commission shall develop and implement an agreement that includes at least all of the
28 following provisions:

- 29 (1) Provisions to authorize the Division of Marine Fisheries marine patrol to
30 perform any needed boating safety inspection.
- 31 (2) To avoid the duplication of enforcement activities by the Division of Marine
32 Fisheries marine patrol and the Wildlife Resources Commission law
33 enforcement officers, a schedule for high-volume areas that is developed to
34 take into account that the Division of Marine Fisheries marine patrol must
35 confine their enforcement activities to the coastal waters.
- 36 (3) To further encourage more efficient management of the State's resources, a
37 protocol that sets forth appropriate circumstances when the Division of
38 Marine Fisheries marine patrol is authorized or required to investigate
39 boating accidents in coastal waters and within the joint jurisdiction of the
40 Division of Marine Fisheries and the Wildlife Resources Commission.
- 41 (4) A provision to prohibit, except in the instances of investigations of boating
42 accidents, the Division of Marine Fisheries from receiving any federal
43 boating safety funds.
- 44 (5) A provision to provide mutual aid that authorizes the Division of Marine
45 Fisheries marine patrol to enter into inland waters in winter to conduct a
46 normal investigation of suspected illegal netting activity.

47 **SECTION 14.11.(b)** No later than April 1, 2014, the Division of Marine Fisheries
48 of the Department of Environment and Natural Resources and the Wildlife Resources
49 Commission shall submit a joint report to the Senate Appropriations Committee on Natural and
50 Economic Resources, the House of Representatives Appropriations Subcommittee on Natural
51 and Economic Resources, and the Fiscal Research Division. The report shall include any

1 findings and recommendations, including any legislative proposals. The report shall include
 2 findings regarding at least the following issues:

- 3 (1) Whether the agreement developed pursuant to subsection (a) of this section
 4 has been successful from the perspective of the Division of Marine Fisheries,
 5 the Wildlife Resources Commission and the public in clarifying enforcement
 6 activities and reducing the duplication of enforcement activities by the
 7 Division of Marine Fisheries marine patrol and the Wildlife Resources
 8 Commission law enforcement officers.
- 9 (2) As an alternative to the agreement developed under the provisions of
 10 subsection (a) of this section, whether it would be preferable to confer law
 11 enforcement powers upon the Division of Marine Fisheries marine patrol to
 12 authorize the Division of Marine Fisheries marine patrol to engage in
 13 enforcement activity related to only fisheries under the jurisdiction of the
 14 Division of Marine Fisheries or subject to the management of the Division of
 15 Marine Fisheries.
- 16 (3) Any other issue the Division of Marine Fisheries or the Wildlife Resources
 17 Commission deems pertinent to include in the report.

18
 19 **GRASSROOTS SCIENCE PROGRAM**

20 **SECTION 14.12.(a)** The Grassroots Science Program within the Department of
 21 Commerce is transferred to the Department of Environment and Natural Resources.

22 **SECTION 14.12.(b)** Of the funds appropriated in this act to the Department of
 23 Environment and Natural Resources, the sum of two million two hundred eighty-nine thousand
 24 seven hundred eighty-two dollars (\$2,289,782) for the 2013-2014 fiscal year and the sum of
 25 two million two hundred eighty-six thousand forty-three dollars (\$2,286,043) for the
 26 2014-2015 fiscal year is allocated as grants-in-aid for each fiscal year as follows:

	2013-2014	2014-2015
28 Aurora Fossil Museum	\$61,821	\$61,801
29 Cape Fear Museum	\$85,248	\$85,108
30 Carolina Raptor Center	\$74,916	\$74,828
31 Catawba Science Center	\$93,041	\$92,860
32 Colburn Earth Science Museum, Inc.	\$62,547	\$62,524
33 Core Sound Waterfowl Museum	\$67,395	\$67,347
34 Discovery Place	\$261,617	\$260,565
35 Eastern NC Regional Science Center	\$59,587	\$59,579
36 Fascinate-U	\$65,616	\$65,577
37 Granville County Museum Commission, 38 Inc.–Harris Gallery	\$60,651	\$60,638
39 Greensboro Children's Museum	\$83,575	\$83,443
40 The Health Adventure Museum of Pack 41 Place Education, Arts and 42 Science Center, Inc.	\$73,352	\$73,273
43 Highlands Nature Center	\$62,816	\$62,791
44 Imagination Station	\$67,588	\$67,538
45 The Iredell Museums, Inc.	\$61,013	\$60,998
46 Kidsenses	\$65,233	\$65,196
47 Museum of Coastal Carolina	\$65,454	\$65,415
48 The Natural Science Center 49 of Greensboro, Inc.	\$116,532	\$116,230
50 North Carolina Museum of Life 51 and Science	\$203,545	\$202,793

1	Pisgah Astronomical Research Institute	\$74,925	\$74,837
2	Port Discover: Northeastern		
3	North Carolina's Center for		
4	Hands-On Science, Inc.	\$60,610	\$60,597
5	Rocky Mount Children's Museum	\$66,463	\$66,419
6	Schiele Museum of Natural History		
7	and Planetarium, Inc.	\$100,990	\$100,768
8	Sci Works Science Center and		
9	Environmental Park of Forsyth County	\$83,725	\$83,592
10	Sylvan Heights Waterfowl Park		
11	and Eco-Center	\$69,864	\$69,803
12	Western North Carolina Nature Center	\$74,973	\$74,885
13	Wilmington Children's Museum	\$66,684	\$66,639
14	Total	\$2,289,782	\$2,286,043

15 **SECTION 14.12.(c)** No later than March 1, 2014, the Department of Environment
 16 and Natural Resources shall report to the Fiscal Research Division all of the following
 17 information for each museum that receives funds under this section:

- 18 (1) The actual operating budget for the 2012-2013 fiscal year.
- 19 (2) The proposed operating budget for the 2013-2014 fiscal year.
- 20 (3) The total attendance at the museum during the 2013 calendar year.

21 **SECTION 14.12.(d)** No later than March 1, 2015, the Department of Environment
 22 and Natural Resources shall report to the Fiscal Research Division all of the following
 23 information for each museum that receives funds under this section:

- 24 (1) The actual operating budget for the 2013-2014 fiscal year.
- 25 (2) The proposed operating budget for the 2014-2015 fiscal year.
- 26 (3) The total attendance at the museum during the 2014 calendar year.

27 **SECTION 14.12.(e)** As a condition for qualifying to receive funding under this
 28 section, all of the following documentation shall, no later than November 1 of each year of the
 29 2013-2015 fiscal biennium, be submitted for each museum under this section to the Department
 30 of Environment and Natural Resources for the fiscal year that most recently ended, and only
 31 those costs that are properly documented under this subsection are allowed by the Department
 32 in calculating the distribution of funds under this section:

- 33 (1) Each museum under this section shall submit its IRS (Internal Revenue
 34 Service) Form 990 to show its annual operating expenses, its annual report,
 35 and a reconciliation that explains any differences between expenses as
 36 shown on the IRS Form 990 and the annual report.
- 37 (2) Each friends association of a museum under this section shall submit its IRS
 38 Form 990 to show its reported expenses for the museum, its annual report,
 39 and a reconciliation that explains any differences between expenses as
 40 shown on the IRS Form 990 and the annual report, unless the association
 41 does not have both an IRS Form 990 and an annual report available, in
 42 which case, it shall submit either an IRS Form 990 or an annual report.
- 43 (3) The chief financial officer of each county or municipal government that
 44 provides funds for the benefit of the museum shall submit a detailed signed
 45 statement of documented costs spent for the benefit of the museum that
 46 includes documentation of the name, address, title, and telephone number of
 47 the person making the assertion that the museum receives funds from the
 48 county or municipality for the benefit of the museum.
- 49 (4) The chief financial officer of each county or municipal government or each
 50 friends association that provides indirect or allocable costs that are not
 51 directly charged to a museum under this section but that benefit the museum

1 shall submit in the form of a detailed statement enumerating each cost by
2 type and amount that is verified by the financial officer responsible for the
3 completion of the documentation and that includes the name, address, title,
4 and telephone number of the person making the assertion that the county,
5 municipality, or association provides indirect or allocable costs to the
6 museum.

7 **SECTION 14.12.(f)** As used in subsection (e) of this section, "friends association"
8 means a nonprofit corporation established for the purpose of supporting and assisting a
9 museum that receives funding under this section.

10 **SECTION 14.12.(g)** No more than one hundred twenty thousand dollars
11 (\$120,000) in State funds shall be used for the annual salary of any one employee of a museum
12 named in subsection (b) of this section. For purposes of this subsection, the term "State funds"
13 means funds allocated to a museum listed in subsection (b) of this section and interest earned
14 on those funds.

15 **SECTION 14.12.(h)** Each museum listed in subsection (b) of this section shall do
16 the following:

- 17 (1) By September 1 of each year, and more frequently as requested, report to the
18 Joint Legislative Commission on Governmental Operations and the Fiscal
19 Research Division on prior State fiscal year program activities, objectives,
20 and accomplishments and prior State fiscal year itemized expenditures and
21 fund sources.
- 22 (2) Provide to the Fiscal Research Division a copy of the organization's annual
23 audited financial statement within 30 days of issuance of the statement.

24 **SECTION 14.12.(i)** No State funds shall be used by any museum listed in
25 subsection (b) of this section (i) to hire or facilitate the hiring of a lobbyist or any person
26 performing the duties or activities of a lobbyist, without regard to the person's title or (ii) to
27 facilitate any lobbying efforts.

28 MUSEUM OF FORESTRY

29 **SECTION 14.13.(a)** No later than October 1, 2013, the State of North Carolina
30 shall convey to the City of Whiteville for consideration of one dollar (\$1.00), all its right, title,
31 and interest in the property used for the Museum of Forestry currently allocated to the
32 Department of Environment and Natural Resources.

33 **SECTION 14.13.(b)** The State of North Carolina shall convey the real property
34 described in subsection (a) of this section without warranty. The State makes no representations
35 or warranties concerning the title to the property, the boundaries of the property, the uses to
36 which the property may be put, zoning, local ordinances or any physical, environmental, health,
37 and safety conditions relating to the property. All costs associated with the conveyance of the
38 property shall be borne by the City of Whiteville.

39 **SECTION 14.13.(c)** The conveyance of the State's right, title, and interest in the
40 Museum of Forestry shall be exempt from the provisions of Article 7 of Chapter 146 of the
41 General Statutes. The conveyance shall comply with the provisions of Article 16 of Chapter
42 146 of the General Statutes; provided that the provisions of G.S. 146-74 shall not apply. The
43 transaction shall be reported to the Fiscal Research Division within 30 days of the transaction
44 being finalized.

45 **SECTION 14.13.(d)** If the governing board of the City of Whiteville resolves to
46 accept ownership of the property used for the Museum of Forestry under this section and the
47 conveyance occurs under this section, the Department of Environment and Natural Resources
48 shall provide the sum of fifty-eight thousand dollars (\$58,000) for the 2013-2014 fiscal year to
49 the City of Whiteville to be used to support the ongoing operations of the Museum of Forestry.
50

1 **SECTION 14.13.(e)** If the governing board of the City of Whiteville resolves to
2 not accept ownership of the property used for the Museum of Forestry under this section and
3 the conveyance does not occur by October 1, 2013, the Department of Environment and
4 Natural Resources shall close the Museum of Forestry no later than October 1, 2013, and shall
5 eliminate all positions for the Museum no later than November 1, 2013. The Department of
6 Environment and Natural Resources may use any funds available to the Department during the
7 2013-2014 fiscal year for any costs associated with operating and then closing the Museum and
8 for supporting positions for the Museum until the Museum is sold, closed, or November 1,
9 2013, whichever occurs earliest.

10
11 **BERNARD ALLEN MEMORIAL EMERGENCY DRINKING WATER FUND**

12 **SECTION 14.14.** G.S. 87-98 reads as rewritten:

13 **"§ 87-98. Bernard Allen Memorial Emergency Drinking Water Fund.**

14 (a) The Bernard Allen Memorial Emergency Drinking Water Fund is established under
15 the control and direction of the Department. The Fund shall be a nonreverting, interest-bearing
16 fund consisting of monies appropriated by the General Assembly or made available to the Fund
17 from any other source and investment interest credited to the Fund.

18 (b) The Fund may be used to pay ~~for notification,~~for:

19 (1) Notification, to the extent practicable, of persons aged 18 and older who
20 reside in any dwelling unit, and the senior official in charge of any business,
21 at which drinking water is supplied from a private drinking water well or
22 improved spring that is located within 1,500 feet of, and at risk from, known
23 groundwater contamination. The senior official in charge of the business
24 shall take reasonable measures to notify all employees of the business of the
25 groundwater contamination, including posting a notice of the contamination
26 in a form and at a location that is readily accessible to the employees of the
27 business. ~~The Fund may also be used by the Department to pay the~~

28 (2) The costs of testing of private drinking water wells and improved springs for
29 suspected contamination up to once every three years upon request by a
30 person who uses the well and for the well, or more frequent testing if the
31 concentration of one or more contaminants in a private drinking water well
32 is increasing over time and there is a significant risk that the concentration of
33 a contaminant will exceed the drinking water action levels set forth in
34 subsection (c) of this section within a three-year period.

35 (3) Additional testing to confirm the results of a previous test.

36 (4) The temporary or permanent provision of alternative drinking water supplies
37 to persons whose drinking water well or improved spring is contaminated.
38 Under this subsection,section, an alternative drinking water supply includes
39 the repair, such as use of a filtration system, or replacement of a
40 contaminated well or the connection to a public water supply.

41 (5) Monitoring of filtration systems used in connection with temporary or
42 permanent alternative drinking water supplies provided pursuant to this
43 section.

44 (c) The Department shall disburse monies from the Fund based on financial need and
45 on the risk to public health posed by groundwater contamination and shall give priority to the
46 provision of services under this section to instances when an alternative source of funds is not
47 available. The Fund shall not be used to provide alternative water supply to households with
48 incomes greater than three hundred percent (300%) of the current federal poverty level. The
49 Fund may be used to provide alternative drinking water supplies if the Department determines
50 that the concentration of one or more contaminants in the private drinking water well or
51 improved spring exceeds the federal maximum contaminant level, or the federal drinking water

1 action level as defined in 40 Code of Federal Regulations § 141.1 through § 141.571 (1 July
2 2007) and 40 Code of Federal Regulations § 143.3 (1 July 2007). For a contaminant for which
3 a federal maximum contaminant level or drinking water action level has not been established,
4 the State groundwater standard established by the Environmental Management Commission for
5 the concentration of that contaminant shall be used to determine whether the Fund may be used
6 to provide alternative drinking water supplies. The Fund may also be used to provide
7 alternative drinking water supplies as provided in this section if the Department determines that
8 the concentration of one or more contaminants in a private drinking water well is increasing
9 over time and that there is a significant risk that the concentration of a contaminant will exceed
10 the federal maximum contaminant level or drinking water action level, or the State groundwater
11 standard. A determination of the concentration of a contaminant shall be based on a sample of
12 water collected from the private drinking water well within the past 12 months.

13 (c1) In disbursing monies from the Fund, the Department shall give preference to
14 provision of permanent replacement water supplies by connection to public water supplies and
15 repair or replacement of contaminated wells over the provision of temporary water supplies. In
16 providing alternative drinking water supplies, the Department shall give preference to
17 connection to a public water supply system or to construction of a new private drinking water
18 well over the use of a filtration system if the Department determines that the costs of periodic
19 required maintenance of the filtration system would be cost-prohibitive for users of the
20 alternative drinking water supply.

21 (c2) If the Department provides an alternative drinking water supply by extension of a
22 waterline, the Department may disburse from the Fund no more than ~~ten-fifty~~ thousand dollars
23 ~~(\$10,000)~~(\$50,000) per household or other service connection. For projects where more than 10
24 residences are eligible for alternative water supplies under this section, no ~~No~~ more than
25 one-third of the total cost of the project may be paid from the Fund. The Department may
26 combine monies from the Fund with monies from other sources in order to pay the total cost of
27 the project.

28 (c3) The Fund shall be used to provide alternative drinking water supplies only if the
29 Department determines that the person or persons who are responsible for the contamination of
30 the private drinking water well is or are not financially viable or cannot be identified or located
31 and if the Department determines that one of the following applies:

- 32 (1) The contamination of the private drinking water well is naturally occurring.
- 33 (2) The owner of the property on which the private drinking water well is
34 located did not cause or contribute to the contamination or control the source
35 of the contamination.
- 36 (3) The source of the contamination is the application or disposal of a hazardous
37 substance or pesticide that occurred without the consent of the owner of the
38 property on which the private drinking water well is located.

39 (c4) The Department may use up to one hundred thousand dollars (\$100,000) annually of
40 the monies in the Fund to pay the personnel and other direct costs associated with the
41 implementation of this section.

42 (c5) The Fund shall not be used for remediation of groundwater contamination.

43 (c6) Nothing in this section expands, contracts, or modifies the obligation of responsible
44 parties under Article 9 or 10 of Chapter 130A of the General Statutes, this Article, or Article
45 21A of this Chapter to assess contamination, identify receptors, or remediate groundwater or
46 soil contamination.

47 (c7) In disbursing monies from the Fund for replacement water supplies, the Department
48 shall give priority to circumstances in which a well is contaminated as the result of
49 nonnaturally occurring groundwater contamination in the area over circumstances in which a
50 well has naturally occurring contamination.

1 (d) The Department shall establish criteria by which the Department is to evaluate
2 applications and disburse monies from this Fund and may adopt any rules necessary to
3 implement this section.

4 (e) The Department, in consultation with the Commission for Public Health and local
5 health departments, shall report no later than ~~1-October~~October 1 of each year to the
6 Environmental Review Commission, the House of Representatives Appropriations
7 Subcommittee on Natural and Economic Resources, Senate Appropriations Committee on
8 Natural and Economic Resources, and the Fiscal Research Division on the implementation of
9 this section. The report shall include the purpose and amount of all expenditures from the Fund
10 during the prior fiscal year, a discussion of the benefits and deficiencies realized as a result of
11 the section, and may also include recommendations for any legislative action."
12

13 **NONCOMMERCIAL LEAKING PETROLEUM UNDERGROUND STORAGE TANK** 14 **CLEANUP FUND; DENR STUDY**

15 **SECTION 14.15.(a)** G.S. 143-215.94D(b1) reads as rewritten:

16 "(b1) The Noncommercial Fund shall be used for the payment of the costs of:

- 17 (1) The cleanup of environmental damage as required by
18 ~~G.S. 143-215.94E(a)~~G.S. 143-215.94E(a) in excess of one thousand dollars
19 (\$1,000) per occurrence, plus a co-pay equal to ten percent (10%) of the
20 costs of the cleanup of environmental damage not to exceed two thousand
21 dollars (\$2,000) per occurrence.
- 22 (2) Compensation to third parties for bodily injury and property damage in
23 excess of one hundred thousand dollars (\$100,000) per occurrence.
- 24 (3) Reimbursing the State for damages or other costs incurred as a result of a
25 loan from the Loan Fund. The per occurrence limit does not apply to
26 reimbursements to the State under this subdivision.
- 27 (4) Recordation of residual petroleum as required by G.S. 143B-279.11 if the
28 Noncommercial Fund is responsible for the payment of costs under
29 subdivisions (1) through (3) of this subsection and subsection (b) of this
30 section."

31 **SECTION 14.15.(b)** The Department of Environment and Natural Resources
32 (Department) shall study the costs and benefits of the noncommercial underground storage tank
33 program and explore options for continued use of the Noncommercial Leaking Petroleum
34 Underground Storage Tank Cleanup Fund (Fund) and ways to improve the solvency of the
35 Fund. The study shall consider all of the following:

- 36 (1) The usual, average, historic costs of various phases of assessment and
37 cleanup of noncommercial UST releases in order to determine areas of
38 potential costs savings.
- 39 (2) The feasibility of determining levels of soil and groundwater contamination
40 at noncommercial UST releases earlier in the assessment and cleanup
41 process in order to identify lower risks sites and limit reimbursement of costs
42 of initial abatement actions.
- 43 (3) The feasibility of assigning risk to noncommercial UST releases earlier in
44 the assessment and cleanup process in order to limit reimbursement of costs
45 of initial abatement actions.
- 46 (4) The feasibility of partial cleanup at lower priority noncommercial UST
47 releases.
- 48 (5) The feasibility of issuing notices similar to the Notices of No Further Action
49 for partially cleaned up, stabilized, lower priority noncommercial UST sites
50 in order to facilitate property transfers.

- 1 (6) Methods to strengthen liability protections for buyers and lenders of
2 residential properties that have known noncommercial UST releases in order
3 to facilitate property transfers.
- 4 (7) Methods to employ land use restrictions on residential properties where
5 petroleum contamination remains at lower risk sites in order to limit cleanup
6 at these sites, while still informing the public of risk, and facilitating
7 property transfers.
- 8 (8) Methods to increase the participation of noncommercial UST owners in the
9 costs of assessments and cleanups.
- 10 (9) Any other matter the Department deems relevant to improve the solvency of
11 the Fund.

12 **SECTION 14.15.(c)** The Department shall report its findings and
13 recommendations, including any legislative proposals, to the Environmental Review
14 Commission, the Senate Appropriations Committee on Natural and Economic Resources, the
15 House of Representatives Appropriations Subcommittee on Natural and Economic Resources,
16 and the Fiscal Research Division no later than April 1, 2014.

17
18 **PORTION OF SCRAP TIRE DISPOSAL TAX CREDITED TO GENERAL FUND;
19 REPEAL SCRAP TIRE DISPOSAL ACCOUNT**

20 **SECTION 14.16.(a)** G.S. 105-187.19(b) reads as rewritten:

21 "(b) Each quarter, the Secretary shall credit ~~eight percent (8%) of the net tax proceeds to~~
22 ~~the Solid Waste Management Trust Fund, seventeen percent (17%) of the net tax proceeds to~~
23 ~~the Scrap Tire Disposal Account, two and one-half percent (2.5%) of the net tax proceeds to the~~
24 ~~Inactive Hazardous Sites Cleanup Fund, and two and one-half percent (2.5%) of the net tax~~
25 ~~proceeds to the Bernard Allen Memorial Emergency Drinking Water Fund.~~ thirty percent (30%)
26 of the net tax proceeds to the General Fund. The Secretary shall distribute the remaining
27 seventy percent (70%) of the net tax proceeds among the counties on a per capita basis
28 according to the most recent annual population estimates certified to the Secretary by the State
29 Budget Officer."

30 **SECTION 14.16.(b)** G.S. 130A-309.63 is repealed.

31 **SECTION 14.16.(c)** Part 2B of Article 9 of Chapter 130A of the General Statutes
32 is amended by adding a new section to read:

33 **"§ 130A-309.64. Scrap Tire Disposal Program; other Department activities related to**
34 **scrap tires.**

35 (a) The Department may make grants to units of local government to assist them in
36 disposing of scrap tires. To administer the grants, the Department shall establish procedures for
37 applying for a grant and the criteria for selecting among grant applicants. The criteria shall
38 include the financial ability of a unit of local government to provide for scrap tire disposal, the
39 severity of a unit of local government's scrap tire disposal problem, the effort made by a unit of
40 local government to ensure that only tires generated in the normal course of business in this
41 State are provided free disposal, and the effort made by a unit of local government to provide
42 for scrap tire disposal within the resources available to it.

43 (b) A unit of local government is not eligible for a grant under subsection (a) of this
44 section unless its costs for disposing of scrap tires for the six-month period preceding the date
45 the unit of local government files an application for a grant exceeded the amount the unit of
46 local government received during that period from the proceeds of the scrap tire tax under
47 G.S. 105-187.19. A grant to a unit of local government for scrap tire disposal may not exceed
48 the unit of local government's unreimbursed cost for the six-month period.

49 (c) The Department may support a position to provide local governments with
50 assistance in developing and implementing scrap tire management programs designed to

1 complete the cleanup of nuisance tire collection sites and prevent scrap tires generated from
2 outside of the State from being presented for free disposal in the State.

3 (d) The Department may clean up scrap tire collection sites that the Department has
4 determined are a nuisance. The Department may use funds to clean up a nuisance tire collection
5 site only if no other funds are available for that purpose.

6 (e) The Department shall include in the report to be delivered to the Environmental
7 Review Commission on or before January 15 of each year pursuant to G.S. 130A-309.06(c) a
8 description of the implementation of the North Carolina Scrap Tire Disposal Act under this Part
9 for the fiscal year ending the preceding June 30. The description of the implementation of the
10 North Carolina Scrap Tire Disposal Act shall include a list of the recipients of grants under
11 subsection (a) of this section and the amount of each grant for the previous 12-month period.
12 The report also shall include the amount of funds used to clean up nuisance sites under
13 subsection (d) of this section.

14 (f) The Department may adopt any rules necessary to implement this section."

15 **SECTION 14.16.(d)** G.S. 130A-309.06(c) reads as rewritten:

16 "(c) The Department shall report to the Environmental Review Commission on or before
17 15 January of each year on the status of solid waste management efforts in the State. The report
18 shall include:

19 ...
20 (10) A description of the implementation of the North Carolina Scrap Tire
21 Disposal Act that includes ~~the beginning and ending balances in the Scrap~~
22 ~~Tire Disposal Account for the reporting period, the amount credited to the~~
23 ~~Scrap Tire Disposal Account during the reporting period, and~~ the amount of
24 revenue used for grants and to clean up nuisance tire collection sites, ~~as~~
25 ~~required by G.S. 130A-309.63(e), under the provisions of G.S 130A-309.64.~~

26"

27 **SECTION 14.16.(e)** G.S. 130A-309.09C(g) reads as rewritten:

28 "(g) In addition to any other penalties provided by law, a unit of local government that
29 does not comply with the requirements of G.S. 130A-309.09A(b) and G.S. 130A-309.09B(a)
30 shall not be eligible for grants from the Solid Waste Management Trust Fund, ~~the Scrap Tire~~
31 ~~Disposal Account Fund~~ or the White Goods Management Account and shall not receive the
32 proceeds of the scrap tire disposal tax imposed by Article 5B of Chapter 105 of the General
33 Statutes or the proceeds of the white goods disposal tax imposed by Article 5C of Chapter 105
34 of the General Statutes to which the unit of local government would otherwise be entitled. The
35 Secretary shall notify the Secretary of Revenue to withhold payment of these funds to any unit
36 of local government that fails to comply with the requirements of G.S. 130A-309.09A(b) and
37 G.S. 130A-309.09B(a). Proceeds of the scrap tire disposal tax that are withheld pursuant to this
38 subsection shall be credited to the ~~Scrap Tire Disposal Account~~ General Fund and may be used
39 as provided in ~~G.S. 130A-309.63~~ G.S. 130A-309.64. Proceeds of the white goods disposal tax
40 that are withheld pursuant to this subsection shall be credited to the White Goods Management
41 Account and may be used as provided in G.S. 130A-309.83."

42 **SECTION 14.16.(f)** The funds appropriated to the Department of Environment and
43 Natural Resources for the 2013-2015 biennium for the Scrap Tire Disposal Program established
44 under G.S. 130A-309.64, as enacted by subsection (b) of this section, shall be allocated as
45 follows:

- 46 (1) Up to eighty thousand dollars (\$80,000) shall be used by the Department of
47 Environment and Natural Resources to support a position in the same
48 manner as revenue in the Scrap Tire Disposal Account may be used under
49 G.S. 130A-309.63(b)(3), and
50 (2) Four hundred twenty thousand dollars (\$420,000) shall be used by the
51 Department of Environment and Natural Resources in the same manner as

1 revenue in the Scrap Tire Disposal Account may be used under
2 G.S. 130A-309.63, as amended by this section.

3 **SECTION 14.16.(g)** Any tax proceeds remaining in the Scrap Tire Disposal
4 Account, repealed under subsection (b) of this section, as of the effective date of this section
5 shall continue to be used for the same purposes and in the same manner as the Scrap Tire
6 Disposal Account, except the funds in the Scrap Tire Disposal Account shall not be used for
7 grants to encourage the use of processed scrap tire materials.

8
9 **PORTION OF WHITE GOODS DISPOSAL TAX CREDITED TO GENERAL FUND**

10 **SECTION 14.17.(a)** G.S. 105-187.24 reads as rewritten:

11 **"§ 105-187.24. Use of tax proceeds.**

12 The Secretary shall distribute the taxes collected under this Article, less the Department of
13 Revenue's allowance for administrative expenses, in accordance with this section. The
14 Secretary may retain the Department's cost of collection, not to exceed four hundred
15 twenty-five thousand dollars (\$425,000) a year, as reimbursement to the Department.

16 Each quarter, the Secretary shall credit ~~eight percent (8%) of the net tax proceeds to the~~
17 ~~Solid Waste Management Trust Fund and shall credit twenty percent (20%) of the net tax~~
18 ~~proceeds to the White Goods Management Account.~~ twenty-eight percent (28%) of the net tax
19 proceeds to the General Fund. The Secretary shall distribute the remaining seventy-two percent
20 (72%) of the net tax proceeds among the counties on a per capita basis according to the most
21 recent annual population estimates certified to the Secretary by the State Budget Officer. The
22 Department shall not distribute the tax proceeds to a county when notified not to do so by the
23 Department of Environment and Natural Resources under G.S. 130A-309.87. If a county is not
24 entitled to a distribution, the proceeds allocated for that county will be credited to the White
25 Goods Management Account.

26 A county may use funds distributed to it under this section only as provided in
27 G.S. 130A-309.82. A county that receives funds under this section and that has an interlocal
28 agreement with another unit of local government under which the other unit provides for the
29 disposal of solid waste for the county must transfer the amount received under this section to
30 that other unit. A unit to which funds are transferred is subject to the same restrictions on use of
31 the funds as the county."

32 **SECTION 14.17.(b)** G.S. 130A-309.83(a) reads as rewritten:

33 "(a) The White Goods Management Account is established within the Department. ~~The~~
34 ~~Account consists of revenue credited to the Account from the proceeds of the white goods~~
35 ~~disposal tax imposed by Article 5C of Chapter 105 of the General Statutes."~~

36 **SECTION 14.17.(c)** G.S. 130A-309.87(a) reads as rewritten:

37 "(a) Receipt of Funds. – A county may not receive a quarterly distribution of the white
38 goods disposal tax proceeds under G.S. 105-187.24 unless the undesignated balance in the
39 county's white goods account at the end of its fiscal year is less than the threshold amount.
40 Based upon the information in a county's Annual Financial Information Report, the Department
41 must notify the Department of Revenue by March 1 of each year which counties may not
42 receive a distribution of the white goods disposal tax for the current calendar year. The
43 Department of Revenue will credit the undistributed tax proceeds to the ~~White Goods~~
44 ~~Management Account.~~ General Fund."

45 **SECTION 14.17.(d)** G.S. 130A-309.09C(g) reads as rewritten:

46 "(g) In addition to any other penalties provided by law, a unit of local government that
47 does not comply with the requirements of G.S. 130A-309.09A(b) and G.S. 130A-309.09B(a)
48 shall not be eligible for grants from the Solid Waste Management Trust Fund, the Scrap Tire
49 Disposal Account, or the White Goods Management Account and shall not receive the proceeds
50 of the scrap tire disposal tax imposed by Article 5B of Chapter 105 of the General Statutes or
51 the proceeds of the white goods disposal tax imposed by Article 5C of Chapter 105 of the

1 General Statutes to which the unit of local government would otherwise be entitled. The
2 Secretary shall notify the Secretary of Revenue to withhold payment of these funds to any unit
3 of local government that fails to comply with the requirements of G.S. 130A-309.09A(b) and
4 G.S. 130A-309.09B(a). Proceeds of the scrap tire disposal tax that are withheld pursuant to this
5 subsection shall be credited to the Scrap Tire Disposal Account and may be used as provided in
6 G.S. 130A-309.63. Proceeds of the white goods disposal tax that are withheld pursuant to this
7 subsection shall be credited to the ~~White Goods Management Account~~ General Fund and may
8 be used as provided in G.S. 130A-309.83."

9 **SECTION 14.17.(e)** G.S. 130A-309.83 is repealed.

10 **SECTION 14.17.(f)** G.S. 130A-309.85(3) is repealed.

11 **SECTION 14.17.(g)** G.S. 130A-309.87, as amended by subsection (c) of this
12 section, reads as rewritten:

13 **"§ 130A-309.87. Eligibility for disposal tax proceeds.**

14 ...

15 (b) Annual Financial Information Report. – On or before November 1 of each year, a
16 county must submit a copy of its Annual Financial Information Report, prepared in accordance
17 with G.S. 159-33.1, to the Department. The Secretary of the Local Government Commission
18 must require the following information in that report:

19 ...

20 (2) The amount of revenue credited to its white goods account. This revenue
21 should include all receipts derived from the white goods disposal tax, and
22 the sale of white goods scrap metals and ~~freon, and a grant from the White~~
23 ~~Goods Management Account.~~ freon.

24"

25 **SECTION 14.17.(h)** Subsection (e) through subsection (g) of this section become
26 effective June 30, 2017.

27
28 **PORTION OF SOLID WASTE DISPOSAL TAX CREDITED TO GENERAL FUND;
29 REPEAL SOLID WASTE MANAGEMENT TRUST FUND**

30 **SECTION 14.18.(a)** G.S. 105-187.63 reads as rewritten:

31 **"§ 105-187.63. Use of tax proceeds.**

32 From the taxes received pursuant to this Article, the Secretary may retain the costs of
33 collection, not to exceed two hundred twenty-five thousand dollars (\$225,000) a year, as
34 reimbursement to the Department. The Secretary must credit or distribute taxes received
35 pursuant to this Article, less the cost of collection, on a quarterly basis as follows:

36 (1) Fifty percent (50%) to the Inactive Hazardous Sites Cleanup Fund
37 established by G.S. 130A-310.11.

38 (2) Thirty-seven and one-half percent (37.5%) to cities and counties in the State
39 on a per capita basis, using the most recent annual estimate of population
40 certified by the State Budget Officer. One-half of this amount must be
41 distributed to cities, and one-half of this amount must be distributed to
42 counties. For purposes of this distribution, the population of a county does
43 not include the population of a city located in the county.

44 A city or county is excluded from the distribution under this subdivision
45 if it does not provide solid waste management programs and services and is
46 not responsible by contract for payment for these programs and services. The
47 Department of Environment and Natural Resources must provide the
48 Secretary with a list of the cities and counties that are excluded under this
49 subdivision. The list must be provided by May 15 of each year and applies to
50 distributions made in the fiscal year that begins on July 1 of that year.

Funds distributed under this subdivision must be used by a city or county solely for solid waste management programs and services.

- (3) Twelve and one-half percent (12.5%) to the ~~Solid Waste Management Trust Fund established by G.S. 130A-309.12.~~ General Fund."

SECTION 14.18.(b) G.S. 130A-309.12 is repealed.

SECTION 14.18.(c) Part 2A of Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"§ 130A-309.13. Solid Waste Management Outreach Program.

(a) The Department shall develop an outreach program to promote waste reduction and recycling. From funds available to the Department for this program, the Department may engage in any of the following outreach activities:

- (1) Provide public education regarding waste reduction and recycling.
- (2) Provide technical assistance regarding waste reduction and recycling to units of local government.
- (3) Conduct research on the solid waste stream in North Carolina.
- (4) Develop secondary materials markets by providing technical and financial support, including providing technical and financial support to private recycling businesses, including use of processed scrap tire materials.
- (5) Provide funding for the activities of the Division of Environmental Assistance and Outreach.

(b) The Department shall include in the report required by G.S. 130A-309.06(c) a description of the outreach program under this section. This report shall specify the type of outreach activity under each of subdivisions (1) through (5) under subsection (a) of this section and the amount of program funds the Department expended for each activity during the previous year."

SECTION 14.18.(d) Of the funds appropriated to the Department of Environment and Natural Resources for the 2013-2015 fiscal biennium for the Solid Waste Management Outreach Program, established under G.S. 130A-309.13, as enacted by subsection (c) of this section, up to one million one hundred thousand dollars (\$1,100,000) may be used by the Department of Environment and Natural Resources for recycling grants.

SECTION 14.18.(e) Any tax proceeds remaining in the Solid Waste Management Trust Fund, repealed under subsection (b) of this section, as of the effective date of this section, shall be used only for one or more of the following purposes:

- (1) Funding activities of the Department to promote waste reduction and recycling, including, but not limited to, public education programs and technical assistance to units of local government.
- (2) Funding research on the solid waste stream in North Carolina.
- (3) Funding activities related to the development of secondary materials markets.
- (4) Providing funding for demonstration projects as provided by this Part.
- (5) Providing funding for research by The University of North Carolina and independent nonprofit colleges and universities within the State which are accredited by the Southern Association of Colleges and Schools as provided by this Part.
- (6) Providing funding for the activities of the Division of Environmental Assistance and Outreach.

REQUIRE DENR TO USE DWQ'S GROUNDWATER INVESTIGATION UNIT'S WELL-DRILLING SERVICES IN OTHER DENR DIVISIONS

SECTION 14.19.(a) The purposes of this section are (i) to assure that the well-drilling staff of the Groundwater Investigation Unit of the Division of Water Quality of

1 the Department of Environment and Natural Resources are fully utilized by establishing a
2 procedure whereby the Groundwater Investigation Unit may bid to contract to provide
3 well-drilling services to other divisions of the Department of Environment and Natural
4 Resources and by providing funding support by these divisions for the Unit's costs and travel
5 expenses and (ii) to reduce the need for the Department of Environment and Natural Resources
6 to enter into contracts with private well-drilling companies.

7 **SECTION 14.19.(b)** During the 2013-2014 fiscal year and the 2014-2015 fiscal
8 year, the Groundwater Investigation Unit of the Division of Water Quality of the Department of
9 Environment and Natural Resources shall bid on contracts to perform well-drilling services for
10 any division within the Department of Environment and Natural Resources that needs to have
11 wells drilled to monitor groundwater, as part of remediating a contaminated site, or as part of
12 any other division or program responsibility, except for a particular instance when this would
13 be impracticable. The provisions of Article 3 of Chapter 143 of the General Statutes apply to
14 any contract entered into under this section.

15 **SECTION 14.19.(c)** The terms of any contract entered into under this section may
16 include a provision whereby the division within the Department of Environment and Natural
17 Resources that contracts for the well-drilling services of the Groundwater Investigation Unit
18 may use available receipts for the 2013-2014 fiscal year and for the 2014-2015 fiscal year, as
19 applicable, for the costs of the Groundwater Investigation Unit well-drilling staff that are
20 incurred to perform the well-drilling services under the contract.

21 **SECTION 14.19.(d)** Other departments within State government that have
22 well-drilling needs are encouraged to use the well-drilling services of the Groundwater
23 Investigation Unit of the Division of Water Quality of the Department of Environment and
24 Natural Resources when it is practicable and financially feasible to do so.

25 **DRINKING WATER STATE REVOLVING FUND**

26 **SECTION 14.20.** Notwithstanding G.S. 159G-22, the Department of Environment
27 and Natural Resources may transfer State funds from the Drinking Water Reserve to the
28 Drinking Water State Revolving Fund for the 2013-2014 fiscal year and shall use any such
29 funds to match maximum available federal grant monies authorized by section 1453 of the
30 federal Safe Drinking Water Act of 1996, 42 U.S.C. § 300j-12, as amended.

31 **CREATE NEW DIVISION OF WATER INFRASTRUCTURE IN DENR; NEW STATE 32 WATER INFRASTRUCTURE AUTHORITY; TRANSFER WATER 33 INFRASTRUCTURE FUND TO NEW DIVISION**

34 **SECTION 14.21.(a)** The Division of Water Infrastructure is established as a new
35 division within the environmental area of the Department of Environment and Natural
36 Resources. All functions, powers, duties, and obligations previously vested in the Division of
37 Water Quality of the Department of Environment and Natural Resources pertaining to the
38 implementation and administration of Chapter 159G of the General Statutes are transferred to
39 and vested in the Division Water Infrastructure by a Type II transfer, as defined in
40 G.S. 143A-6. All functions, powers, duties, and obligations previously vested in the Division of
41 Water Resources of the Department of Environment and Natural Resources pertaining to the
42 implementation and administration of Chapter 159G of the General Statutes are transferred to
43 and vested in the Division Water Infrastructure by a Type II transfer, as defined in
44 G.S. 143A-6. The Water Infrastructure Fund established under G.S. 159G-22 and all accounts
45 within the Water Infrastructure Fund under G.S. 159G-22 shall be transferred to and
46 administered by the Division of Water Infrastructure.

47 **SECTION 14.21.(b)** Chapter 159G of the General Statutes is amended by adding a
48 new Article to read:

49 "Article 5.
50
51

"State Water Infrastructure Authority.**"§ 159G-70. State Water Infrastructure Authority created.**

(a) Authority Established. – The State Water Infrastructure Authority is created within the Department of Environment and Natural Resources.

(b) Membership. – The Authority consists of nine members as follows:

(1) The Assistant Secretary of Infrastructure of the Department or the Assistant Secretary's designee who is familiar with the water infrastructure financing, regulatory, and technical assistance programs of the Department.

(2) The Secretary of Commerce or the Secretary's designee who is familiar with the State programs that fund water or other infrastructure improvements for the purpose of promoting economic development.

(3) The Director of the Local Government Commission or the Director's designee who is familiar with the functions of the Commission.

(4) One member who is a professional engineer in the private sector and is familiar with the development of infrastructure necessary for wastewater systems, to be appointed by the Governor to a term that expires on July 1 of even-numbered years.

(5) One member who is knowledgeable about, and has experience related to, direct federal funding programs for wastewater and public water systems, to be appointed by the Governor to a term that expires on July 1 of odd-numbered years.

(6) One member who is a representative of an urban local government wastewater system or public water system, to be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of even-numbered years.

(7) One member who is a representative of a rural local government wastewater system or public water system, to be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of odd-numbered years.

(8) One member who either (i) is a county commissioner of a rural county or (ii) resides in a rural county and is knowledgeable about, and has experience related to, public health services; to be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of even-numbered years.

(9) One member who is familiar with wastewater, drinking water, and stormwater issues and related State funding sources, to be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of odd-numbered years.

(c) Terms. – The members appointed by the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives shall serve two-year terms. The other members, who are ex officio members or designees of those members, shall serve until they are no longer in office or are replaced with another designee.

(d) Chair. – The Assistant Secretary of Infrastructure, or the Assistant Secretary's designee, shall serve as Chair of the Authority. The Chair must call the first meeting. The Chair shall serve as a nonvoting member, provided, however, that the Chair shall vote to break a tie.

(e) Meetings. – The Authority shall meet at least four times a year and may meet as often as needed. A majority of the members of the Authority constitutes a quorum for the transaction of business. The affirmative vote of a majority of the members present at a meeting of the Authority is required for action to be taken by the Authority.

(f) Vacancies. – A vacancy in the Authority or as Chair of the Authority resulting from the resignation of a member or otherwise is filled in the same manner in which the original

1 appointment was made. The term of an appointment to fill a vacancy is for the balance of the
2 unexpired term.

3 (g) Compensation. – Each member of the Authority shall receive no salary as a result of
4 serving on the Authority but shall receive per diem, subsistence, and travel expenses in
5 accordance with the provisions of G.S. 120-3.1, 138-5, and 138-6, as applicable.

6 **"§ 159G-71. State Water Infrastructure Authority; powers and duties.**

7 The Authority has the following additional duties:

- 8 (1) After reviewing the recommendations for grants and loans submitted to it by
9 the Division, to determine the rank of applications and to select the
10 applications that are eligible to receive grants and loans, consistent with
11 federal law.
- 12 (2) To establish priorities for making loans and grants under this Chapter,
13 consistent with federal law.
- 14 (3) To review the criteria for making loans and grants under G.S. 159G-23 and
15 make recommendations, if any, to the Department for additional criteria or
16 changes to the criteria, consistent with federal law.
- 17 (4) To develop guidelines for making loans and grants under this Chapter,
18 consistent with federal law.
- 19 (5) To develop a master plan to meet the State's water infrastructure needs.
- 20 (6) To assess and make recommendations on the role of the State in the
21 development and funding of wastewater, drinking water, and stormwater
22 infrastructure in the State.
- 23 (7) To analyze the adequacy of projected funding to meet projected needs over
24 the next five years.
- 25 (8) To make recommendations on ways to maximize the use of current funding
26 resources, whether federal, State, or local, and to ensure that funds are used
27 in a coordinated manner.
- 28 (9) To review the application of management practices in wastewater, drinking
29 water, and stormwater utilities, and to determine the best practices.
- 30 (10) To assess the role of public-private partnerships in the future provision of
31 utility service.
- 32 (11) To assess the application of the river basin approach to utility planning and
33 management.
- 34 (12) To assess the need for a "troubled system" protocol.

35 **"§ 159G-72. State Water Infrastructure Authority; reports.**

36 No later than November 1 of each year, the Authority shall submit a report of its activity
37 and findings, including any recommendations or legislative proposals, to the Senate
38 Appropriations Committee on Natural and Economic Resources, the House of Representatives
39 Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research
40 Division of the Legislative Services Commission."

41 **SECTION 14.21.(c)** Article 4 of Chapter 159G of the General Statutes is repealed.

42 **SECTION 14.21.(d)** G.S. 159G-20 reads as rewritten:

43 **"§ 159G-20. Definitions.**

44 The following definitions apply in this Chapter:

- 45 ...
- 46 ~~(5) Division of Water Quality. — The Division of Water Quality of the~~
47 ~~Department of Environment and Natural Resources.~~
 - 48 ~~(5a) Division of Water Resources. — The Division of Water Resources of the~~
49 ~~Department of Environment and Natural Resources.~~
 - 50 (5b) Division. — Division of Water Infrastructure.

51"

1 **SECTION 14.21.(e)** G.S. 159G-23 reads as rewritten:

2 "**§ 159G-23. Common criteria for loan or grant from Wastewater Reserve or Drinking**
3 **Water Reserve.**

4 The criteria in this section apply to a loan or grant from the Wastewater Reserve or the
5 Drinking Water Reserve. The Division of Water ~~Quality and the Division of Water~~
6 ~~Resources~~Infrastructure must each establish a system of assigning points to applications based
7 on the following criteria:

8 (1) Public necessity. – An applicant must explain how the project promotes
9 public health and protects the environment. A project that improves a system
10 that is not in compliance with permit requirements or is under orders from
11 the Department, enables a moratorium to be lifted, or replaces failing septic
12 tanks with a wastewater collection system has priority.

13 "

14 **SECTION 14.21.(f)** G.S. 159G-26(a) reads as rewritten:

15 "(a) Requirement. – The Department must publish a report each year on the accounts in
16 the Water Infrastructure Fund that are administered by the Division of Water ~~Quality or the~~
17 ~~Division of Water Resources~~Infrastructure. The report must be published by 1 November of
18 each year and cover the preceding fiscal year. The Department must make the report available
19 to the public and must give a copy of the report to the Environmental Review Commission and
20 the Fiscal Research Division of the ~~General Assembly~~Legislative Services Commission."

21 **SECTION 14.21.(g)** G.S. 159G-30 reads as rewritten:

22 "**§ 159G-30. Department's responsibility.**

23 The Department, through the Division of Water ~~Quality and the Division of Water~~
24 ~~Resources~~Infrastructure, administers loans and grants made from the CWSRF, the DWSRF,
25 the Wastewater Reserve, and the Drinking Water Reserve. ~~The Division of Water Quality~~
26 ~~administers loans and grants from the CWSRF and the Wastewater Reserve. The Division of~~
27 ~~Water Resources administers loans and grants from the DWSRF and the Drinking Water~~
28 ~~Reserve."~~

29 **SECTION 14.21.(h)** G.S. 159G-32(b) reads as rewritten:

30 "(b) Wastewater Reserve. – The Department is authorized to make loans and grants from
31 the Wastewater Reserve for the following types of projects:

- 32 (1) Wastewater collection system.
33 (2) Wastewater treatment works.
34 (3) Stormwater quality ~~project~~projects, including innovative stormwater
35 management projects and pilot projects.
36 (4) Nonpoint source pollution project."

37 **SECTION 14.21.(i)** G.S. 159G-37 reads as rewritten:

38 "**§ 159G-37. Application to CWSRF, Wastewater Reserve, DWSRF, and Drinking Water**
39 **Reserve.**

40 An application for a loan or grant from the ~~CWSRF or the Wastewater Reserve~~CWSRF, the
41 ~~DWSRF, the Wastewater Reserve, or the Drinking Water Reserve~~ must be filed with the
42 Division of Water ~~Quality of the Department. An application for a loan or grant from the~~
43 ~~DWSRF or the Drinking Water Reserve must be filed with the Division of Water~~
44 ~~Resources~~Infrastructure of the Department. An application must be submitted on a form
45 prescribed by the Division and must contain the information required by the Division. An
46 applicant must submit to the Division any additional information requested by the Division to
47 enable the Division to make a determination on the application. An application that does not
48 contain information required on the application or requested by the Division is incomplete and
49 is not eligible for consideration. An applicant may submit an application in as many categories
50 as it is eligible for consideration under this Article."

51 **SECTION 14.21.(j)** G.S. 159G-38 reads as rewritten:

"§ 159G-38. Environmental assessment and public hearing.

(a) Required Information. – An application submitted under this Article for a loan or grant for a project must state whether the project requires an environmental assessment. If the application indicates that an environmental assessment is not required, it must identify the exclusion in the North Carolina Environmental Policy Act, Article 1 of Chapter 113A of the General Statutes, that applies to the project. If the application does not identify an exclusion in the North Carolina Environmental Policy Act, it must include an environmental assessment of the project's probable impacts on the environment.

(b) Division Review. – If, after reviewing an application, the Division of Water ~~Quality or the Division of Water Resources, as appropriate,~~ Infrastructure determines that a project requires an environmental assessment, the assessment must be submitted before the Division continues its review of the application. If, after reviewing an environmental assessment, the Division concludes that an environmental impact statement is required, the Division may not continue its review of the application until a final environmental impact statement has been completed and approved as provided in the North Carolina Environmental Policy Act.

(c) Hearing. – The Division of Water ~~Quality or the Division of Water Resources, as appropriate,~~ Infrastructure may hold a public hearing on an application for a loan or grant under this Article if it determines that holding a hearing will serve the public interest. An individual who is a resident of any county in which a proposed project is located may submit a written request for a public hearing. The request must set forth each objection to the proposed project or other reason for requesting a hearing and must include the name and address of the individual making the request. The Division may consider all written objections to the proposed project, any statement submitted with the hearing request, and any significant adverse effects the proposed project may have on the environment. The Division's decision on whether to hold a hearing is conclusive. The Division must keep all written requests for a hearing on an application as part of the records pertaining to the application."

SECTION 14.21.(k) G.S. 159G-39 reads as rewritten:

"§ 159G-39. Review of applications and award of loan or grant.

(a) Point Assignment. – The Division of Water ~~Quality or the Division of Water Resources, as appropriate,~~ Infrastructure must review all applications filed for a loan or grant under this Article for an application period. The Division must rank each application in accordance with the points assigned to the evaluation criteria. The Division must make a written determination of an application's rank and attach the determination to the ~~application.~~ The Division's determination of rank is conclusive. application for the Authority's review. The Authority must consider the Division's determination of rank when the Authority determines an application's rank. The Authority's determination of rank is conclusive.

(b) Initial Consideration. – The Division may consider an application for an emergency loan from the Wastewater Reserve or the Drinking Water Reserve at any time. The Division must consider all other loan applications and all grant applications filed during an application period at the same time in order to rank the applications. The Division shall forward all applications received for the application period to the State Water Infrastructure Authority.

(c) Reconsideration. – When the Authority determines an application's rank is too low to receive an award of a loan or grant for an application period, the Division must include the application with those considered for the next application period. If the application's rank is again too low to receive an award, the application is not eligible for consideration in a subsequent application period. An applicant whose application does not receive an award after review in two application periods may file a new application.

(d) Notification of Decision. – When the ~~Division~~ Authority determines that an application's rank makes it eligible for an award of a loan or grant, the Division must send the applicant a letter of intent to award the loan or grant. The notice must set out any conditions the applicant must meet to receive an award of a loan or grant. When the applicant satisfies the

1 conditions set out in the letter of intent, the Division must send the applicant an offer to award a
2 loan or grant. The applicant must give the Division written notice of whether it accepts or
3 rejects the offer. A loan or grant is considered awarded when an offer to award the loan or grant
4 is issued."

5 **SECTION 14.21.(l)** G.S. 143-355.4(b) reads as rewritten:

6 "(b) To be eligible for State water infrastructure funds from the Drinking Water State
7 Revolving Fund or the Drinking Water Reserve or any other grant or loan of funds allocated by
8 the General Assembly whether the allocation of funds is to a State agency or to a nonprofit
9 organization for the purpose of extending waterlines or expanding water treatment capacity, a
10 local government or large community water system must demonstrate that the system:

- 11 (1) Has established a water rate structure that is adequate to pay the cost of
12 maintaining, repairing, and operating the system, including reserves for
13 payment of principal and interest on indebtedness incurred for maintenance
14 or improvement of the water system during periods of normal use and
15 periods of reduced water use due to implementation of water conservation
16 measures. The funding agency shall apply guidelines developed by the State
17 Water Infrastructure ~~Commission~~ Authority in determining the adequacy of
18 the water rate structure to support operation and maintenance of the system.

19 "...."

20 **SECTION 14.21.(m)** Of the funds appropriated to the Department of Environment
21 and Natural Resources in this act, at least three million two hundred thousand dollars
22 (\$3,200,000) for the 2013-2014 fiscal year and at least four million seven hundred thousand
23 dollars (\$4,700,000) for the 2014-2015 fiscal year shall be used for grants to local government
24 units for public water-system related projects and wastewater-related projects. The State Water
25 Infrastructure Authority established by G.S. 159G-70, as enacted by subsection (b) of this
26 section, shall determine the distribution of funds between public water-system related projects
27 and wastewater-related projects, depending upon the number of applications for grants received
28 and the priorities established by the State Water Infrastructure Authority. Grants awarded to
29 local government units for public water-system related projects shall be credited to the
30 Drinking Water Reserve established in G.S. 159G-22 to be used for grants to local government
31 units in accordance with the provisions of Chapter 159G of the General Statutes, as amended
32 by this section. Grants awarded to local government units for wastewater-related projects shall
33 be credited to the Wastewater Reserve established in G.S. 159G 22 to be used for grants to
34 local government units in accordance with the provisions of Chapter 159G of the General
35 Statutes, as amended by this section. The State Water Infrastructure Authority shall report no
36 later than May 1, 2014, to the Environmental Review Commission, the Senate Appropriations
37 Committee on Natural and Economic Resources, the House of Representatives Appropriations
38 Subcommittee on Natural and Economic Resources, and the Fiscal Research Division on the
39 distribution of grant funds awarded under Chapter 159G of the General Statutes, as amended by
40 the section, and whether changes are needed to the existing grant program under Chapter 159G
41 of the General Statutes or other available grant programs to better facilitate the dissemination of
42 funds and meet the project needs of rural, economically-distressed local governments.

43 **SECTION 14.21.(n)** The terms for the members who are appointed initially to the
44 State Water Infrastructure Authority established by G.S. 159G-70, as enacted by subsection (b)
45 of this section, shall commence July 1, 2013. Notwithstanding the provisions of G.S. 159G-70,
46 as enacted by subsection (b) of this section, in order to establish staggered terms, the terms for
47 the members who are appointed initially to the State Water Infrastructure Authority under
48 G.S. 159G-70(b)(4), (6), and (8) shall expire July 1, 2016.

49 **SECTION 14.21.(o)** The Revisor of Statutes shall make any other necessary
50 conforming changes in the General Statutes not included under the provisions of this section in
51 order to effectuate the provisions of this section.

INCREASE FUNDING FOR DREDGING

SECTION 14.22.(a) G.S. 75A-3 reads as rewritten:

"§ 75A-3. Wildlife Resources Commission to administer Chapter; Vessel Committee; funds for administration.

(a) The Commission shall enforce and administer the provisions of this Chapter.

(b) The chair of the Commission shall designate from among the members of the Commission three members who shall serve as the Vessel Committee of the Commission, and who shall, in their activities with the Commission, place special emphasis on the administration and enforcement of this Chapter.

(c) The Boating Account is established within the Wildlife Resources Fund created under G.S. 143-250. Interest and other investment income earned by the Account accrues to the Account. All moneys collected pursuant to the numbering and titling provisions of this Chapter shall be credited to this Account. Motor fuel excise tax revenue is credited to the Account under G.S. 105-449.126. The Commission shall use revenue in the Account, subject to the Executive Budget Act and the Personnel Act, for the administration and enforcement of this Chapter; for activities relating to boating and water safety including education and waterway marking and improvement; and for boating access area acquisition, development, and maintenance. The Commission shall use at least three dollars (\$3.00) of each one-year certificate of number fee and at least nine dollars (\$9.00) of each three-year certificate of number fee collected under the numbering provisions of G.S. 75A-5 for boating access area acquisition, development, and maintenance. The Commission shall transfer on a quarterly basis forty-five percent (45%) of each one-year certificate of number fee and forty-five percent (45%) of each three-year certificate of number fee collected under the numbering provisions of G.S. 75A-5 to the Shallow Draft Navigation Channel Dredging Fund established by G.S. 143-215.73F."

SECTION 14.22.(b) G.S. 75A-5 reads as rewritten:

"§ 75A-5. Application for certificate of ~~number and fees; number; fees; reciprocity; change of ownership; conformity with federal regulations; records; award of certificates; renewal of certificates; transfer of partial interest; destroyed or junked vessels; abandonment; change of address; duplicate certificates; display.~~

(a) Application for Certificate of ~~Number and Fees-Number.~~ – The owner of each vessel requiring numbering by this State shall file an application for a certificate of number with the Commission. The Commission shall furnish application forms and shall prescribe the information contained in the application form. The application shall be signed by the owner of the vessel or the owner's agent and shall be accompanied by a ~~fee. The fee is fifteen dollars (\$15.00) for a one-year period or forty dollars (\$40.00) for a three-year period.~~ fee, as set out in subsection (a1) of this section. The fee does not apply to vessels owned and operated by nonprofit rescue squads if they are operated exclusively for rescue purposes, including rescue training. The owner shall have the option of selecting a one-year numbering period or a three-year numbering period. Upon receipt of the application in approved form, the Commission shall enter the application in its records and issue the owner a certificate of number stating the identification number awarded to the vessel and the name and address of the owner, and a validation decal indicating the expiration date of the certificate of number. The owner shall paint on or attach to each side of the bow of the vessel the identification number in such manner as may be prescribed by rules of the Commission in order that it may be clearly visible. The identification number shall be maintained in legible condition. The validation decal shall be displayed on the starboard bow of the vessel immediately following the number. The certificate of number shall be pocket size and shall be available for inspection on the vessel for which the certificate is issued at all times the vessel is in operation. Any person charged with

1 failing to so carry a certificate of number shall not be convicted if the person produces in court
2 a certificate of number previously issued to the owner that was valid at the time of the alleged
3 violation.

4 (a1) Fees. – The fees for certificates of number are as set out in this subsection:

5 (1) The fee for a certificate of number for a one-year period is:

6 a. Twenty-five dollars (\$25.00) for a vessel that is less than 26 feet in
7 length.

8 b. Fifty dollars (\$50.00) for a vessel that is 26 feet or more in length.

9 (2) The fee for a certificate of number for a three-year period is:

10 a. Seventy-five dollars (\$75.00) for a vessel that is less than 26 feet in
11 length.

12 b. One hundred fifty dollars (\$150.00) for a vessel that is 26 feet or
13 more in length.

14 (b) Reciprocity. – The owner of any vessel already covered by a number in full force
15 and effect pursuant to federal law or a federally approved numbering system of another state
16 shall record the identification number prior to operating the vessel on the waters of this State in
17 excess of the 90-day reciprocity period provided for in G.S. 75A-7(a)(1). The recordation shall
18 be made pursuant to subsection (a) of this section, except that no additional or substitute
19 identification number shall be issued.

20 (c) Change of Ownership. – Should the ownership of a vessel change, a new application
21 form with a fee in the amount set in subsection ~~(a)~~(a1) of this section shall be filed with the
22 Commission and a new certificate bearing the same identification number shall be awarded to
23 the new owner in the same manner as an original certificate of number. Possession of the
24 certificate shall in cases involving prosecution for violation of any provision of this Chapter be
25 prima facie evidence that the person whose name appears on the certificate is the owner of the
26 vessel referred to on the certificate.

27 (d) Conformity With Federal Regulations. – In the event that an agency of the federal
28 government shall have in force an over-all system of identification numbering for vessels
29 within the United States, the numbering system employed pursuant to this Chapter by the
30 Commission shall be in conformity therewith.

31 (e) Repealed by Session Laws 2006-185, s. 1.

32 (f) Records. – All records of the Commission made or kept pursuant to this section
33 shall be public records.

34 (g) Award of Certificates. – Each certificate of number awarded pursuant to this
35 Chapter, unless sooner terminated or discontinued in accordance with the provisions of this
36 Chapter, shall continue in full force and effect to and including the last day of the month during
37 which the certificate was awarded after the lapse of one year in the case of a one-year
38 certificate or three years in the case of a three-year certificate. No person shall willfully remove
39 a validation decal from any vessel during the continuance of its validity or alter, counterfeit, or
40 otherwise tamper with a validation decal attached to any vessel for the purpose of changing or
41 obscuring the indicated date of expiration of the certificate of number of the vessel.

42 (h) Renewal of Certificates. – An owner of a vessel awarded a certificate of number
43 pursuant to this Chapter shall renew the certificate on or before the first day of the month after
44 which the certificate expires; otherwise, the certificate shall lapse and be void until such time as
45 it may thereafter be renewed. Application for renewal shall be submitted on a form approved by
46 the Commission and shall be accompanied by a fee in the amount set in subsection ~~(a)~~(a1) of
47 this section. ~~No fee is required for a period of one year for renewal of certificates of number~~
48 ~~that have been previously issued to commercial fishing vessels as defined in G.S. 75A-5.1,~~
49 ~~upon compliance with all of the requirements of that section.~~

50 (i) Transfer of Partial Interest. – The owner shall furnish the Commission notice of the
51 transfer of any part of the owner's interest other than the creation of a security interest in a

1 vessel numbered in this State pursuant to subsections (a) and (b) of this section within 15 days
2 of the transfer. A transfer of partial interest in a vessel shall not affect the owner's right to
3 operate the vessel, nor shall a transfer of partial interest in a vessel terminate the certificate of
4 number.

5 (i1) Destroyed or Junked Vessels. – The owner of any destroyed or junked vessel shall
6 furnish the Commission notice of the destruction or junking of that vessel within 15 days of its
7 occurrence. Destruction or junking terminates the certificate of number and renders the hull
8 identification number invalid for that vessel.

9 (i2) Abandonment. – A person may acquire ownership of an abandoned vessel by
10 providing proof to the Commission that the lawful owner has actually abandoned the vessel.
11 The Commission shall adopt rules by which a person seeking to acquire ownership may
12 demonstrate that the vessel is actually abandoned. At a minimum, the rules shall provide for a
13 reasonable attempt to locate the lawful owner and, if the owner is located, notice by the
14 claimant of an intention to claim ownership of the vessel.

15 (j) Change of Address. – Whenever any person, after applying for or obtaining the
16 certificate of number of a vessel, moves from the address shown in the application or upon the
17 certificate of number, that person shall notify the Commission of the change of address within
18 30 days of moving in a form acceptable to the Commission.

19 (j1) Duplicate Certificates. – The Commission shall issue a duplicate certificate of
20 number for a vessel upon application by the person entitled to hold the certificate, if the
21 Commission is satisfied that the original certificate of number has been lost, stolen, mutilated,
22 or destroyed, or has become illegible. The Commission shall charge a fee of five dollars (\$5.00)
23 for issuance of each duplicate certificate.

24 (k) Display. – No number other than the identification number set forth in the certificate
25 of number or granted reciprocity pursuant to this Chapter shall be painted, attached, or
26 otherwise displayed on either side of the bow of a vessel, except the validation decal required
27 by subsection (a) of this section.

28 (l) Repealed by Session Laws 2006-185, s. 1."

29 **SECTION 14.22.(c)** G.S. 75A-5.1 is repealed.

30 **SECTION 14.22.(d)** G.S. 75A-7 reads as rewritten:

31 **"§ 75A-7. Exemption from numbering requirements.**

32 (a) A vessel shall not be required to be numbered under this Chapter if it is:

33 (1) A vessel that is required to be awarded an identification number pursuant to
34 federal law or a federally approved numbering system of another state, and
35 for which an identification number has been so awarded: Provided, that any
36 such vessel shall not have been within this State for a period in excess of 90
37 consecutive days.

38 (2) A vessel from a country other than the United States temporarily using the
39 waters of this State.

40 (3) A vessel whose owner is the United States, a state or a subdivision thereof.

41 (4) A ship's lifeboat.

42 ~~(5) A vessel that has a valid marine document issued by the federal Bureau of~~
43 ~~Customs or any federal agency successor thereto.~~

44 (6) A sailboat of not more than 14 feet on the load water line (LWL).

45 (7) A vessel with no means of propulsion other than drifting or manual
46 paddling, poling, or rowing.

47 (b) The Commission is hereby empowered to permit the voluntary numbering of vessels
48 owned by the United States, a state or a subdivision thereof.

49 (c) Those vessels owned by the United States, a state or a subdivision thereof and those
50 owned by nonprofit rescue squads may be assigned a certificate of number bearing no
51 expiration date but which shall be stamped with the word "permanent" and shall not be

1 renewable so long as the vessel remains the property of the governmental entity or nonprofit
2 rescue squad. If the ownership of any such vessel is transferred from one governmental entity
3 to another or to a nonprofit rescue squad or if a vessel owned by a nonprofit rescue squad is
4 transferred to another nonprofit rescue squad or governmental entity, the Commission shall
5 issue a new permanent certificate of number, displaying the same identification number,
6 without charge to the successor entity. When any such vessel is sold to a private owner or is
7 otherwise transferred to private ownership, the applicable certificate of number shall be deemed
8 to have expired immediately prior to the transfer. Prior to further use on the waters of this State,
9 the new owner shall obtain a certificate of number pursuant to the provisions of this Chapter.
10 The provisions of this subsection applicable to a vessel owned by a nonprofit rescue squad
11 apply only to a vessel operated exclusively for rescue purposes, including rescue training."

12 **SECTION 14.22.(e)** G.S. 75A-34 reads as rewritten:

13 **"§ 75A-34. Who may apply for certificate of title; authority of employees of Commission.**

14 (a) Any owner of a motorized vessel or sailboat 14 feet or longer or any personal
15 watercraft, as defined in G.S. 75A-13.3(a), that is applying for a certificate of number for the
16 first time in this State pursuant to G.S. 75A-5(a), and any new owner of a motorized vessel or
17 sailboat 14 feet or longer or any personal watercraft to whom ownership is being transferred
18 under G.S. 75A-5(c) shall apply to the Commission for a certificate of title for that vessel. Any
19 other vessel may be titled in this State at the owner's option. A vessel may not be titled in this
20 State if it is titled in another state, unless the current title is surrendered along with the
21 application for a certificate of title in this State. The Commission shall issue a certificate of title
22 upon reasonable evidence of ownership, which may be established by affidavit, bill of sale,
23 manufacturer's statement of origin, certificate of title in this State, certificate of number or title
24 from another state, or other document satisfactory to the Commission. Only one certificate of
25 title may be issued for any vessel in this State. A vessel may not be titled in this State if it is
26 documented with the United States Coast ~~Guard~~-Guard, unless the documentation has expired
27 or been deleted by the United States Coast Guard. The Commission shall issue a certificate of
28 title upon receipt of a completed application, along with the appropriate fee and reasonable
29 evidence of ownership. The Commission shall require a manufacturer's statement of origin for
30 all new vessels being issued a certificate of number and a certificate of title for the first time.
31 The Commission may request a pencil tracing of the hull identification number (serial number)
32 for vessels being transferred, in order to positively identify the vessel before issuance of a
33 certificate of title for that vessel.

34 (b) Employees of the Commission are vested with the power to administer oaths and to
35 take acknowledgements and affidavits incidental to the administration and enforcement of this
36 section. They shall receive no compensation for these services."

37 **SECTION 14.22.(f)** G.S. 75A-38 reads as rewritten:

38 **"§ 75A-38. Commission's records; fees.**

39 (a) The Commission shall maintain a record of any title it issues.

40 (b) The Commission shall charge a fee of ~~twenty dollars (\$20.00)~~ thirty dollars (\$30.00)
41 to issue a new or transfer certificate of title. The Commission shall transfer on a quarterly basis
42 at least ten dollars (\$10.00) of each new or transfer certificate of title to the Shallow Draft
43 Navigation Channel Dredging Fund established by G.S. 143-215.73F. The Commission shall
44 charge a fee of ten dollars (\$10.00) for each duplicate title it issues and for the recording of a
45 supplemental lien."

46 **SECTION 14.22.(g)** G.S. 105-449.126 reads as rewritten:

47 **"§ 105-449.126. Distribution of part of Highway Fund allocation to Wildlife Resources**
48 **Fund, Fund and Shallow Draft Navigation Channel Dredging Fund.**

49 (a) The Secretary shall credit to the Wildlife Resources Fund one-sixth of one percent
50 (1/6 of 1%) of the amount that is allocated to the Highway Fund under G.S. 105-449.125 and is
51 from the excise tax on motor fuel. Revenue credited to the Wildlife Resources Fund under this

1 section may be used only for the boating and water safety activities described in G.S. 75A-3(c).
2 The Secretary must credit revenue to the Wildlife Resources Fund on an annual basis.

3 (b) The Secretary shall credit to the Shallow Draft Navigation Channel Dredging Fund
4 one-sixth of one percent (1/6 of 1%) of the amount that is allocated to the Highway Fund under
5 G.S. 105-449.125 and is from the excise tax on motor fuel. Revenue credited to the Shallow
6 Draft Navigation Channel Dredging Fund under this section may be used only for the dredging
7 activities described in G.S. 143-215.73F. The Secretary shall credit revenue to the Shallow
8 Draft Navigation Channel Dredging Fund on an annual basis."

9 **SECTION 14.22.(h)** Article 21 of Chapter 143 of the General Statutes is amended
10 by adding a new Part to read:

11 "Part 8B. Shallow Draft Navigation Channel Dredging Fund.

12 **§ 143-215.73F. Shallow Draft Navigation Channel Dredging Fund.**

13 The Shallow Draft Navigation Channel Dredging Fund is established as a special revenue
14 fund. The Fund consists of fees credited to it under G.S. 75A-3, 75A-38, and 105-449.126.
15 Revenue in the Fund may only be used to provide the State's share of the costs associated with
16 any dredging project designed to keep a shallow draft navigation channel located in State
17 waters navigable and safe. Any project funded by revenue from the Fund must be cost-shared
18 with non-State dollars on a one-to-one basis. For purposes of this section, "shallow draft
19 navigation channel" means (i) a waterway connection, with a maximum depth of 14 feet,
20 between the Atlantic Ocean and a bay or the Atlantic Intracoastal Waterway (ii) a river entrance
21 to the Atlantic Ocean through which tidal and other currents flow or (iii) other interior coastal
22 waterways."

23 **SECTION 14.22.(i)** Nothing in this section shall affect the validity, term, or cost of
24 any certificate of number or certificate of title issued prior to July 1, 2013.

25 **SECTION 14.22.(j)** This section authorizes a Long Term Dredging Memorandum
26 of Agreement with the U.S. Army Corps of Engineers which may last beyond the current fiscal
27 biennium and which shall provide for all of the following:

- 28 (1) Prioritization of projects through joint consultation with the State, applicable
29 units of local government, and the U.S. Army Corps of Engineers.
- 30 (2) Compliance with G.S. 143-215.73F. Funds in the Shallow Draft Navigation
31 Channel Dredging Fund shall be used in accordance with that section.
- 32 (3) Annual reporting by the Department on the use of funds provided to the U.S.
33 Army Corps of Engineers under the Long Term Dredging Memorandum of
34 Agreement. These reports shall be made to the Joint Legislative Commission
35 on Governmental Operations, the Fiscal Research Division, and the Office of
36 State Budget and Management and shall include all of the following:
 - 37 a. A list of all projects commenced.
 - 38 b. The estimated cost of each project.
 - 39 c. The date that work on each project commenced or is expected to
40 commence.
 - 41 d. The date that work on each project was completed or is expected to
42 be completed.
 - 43 e. The actual cost of each project.

44 **SECTION 14.22.(k)** The Department of Environment and Natural Resources may
45 use available funds for the 2013-2014 fiscal year and the 2014-2015 fiscal year in the Shallow
46 Draft Navigation Channel Dredging Fund established in G.S. 143-215.73F, as enacted by
47 subsection (h) of this section, to provide the State's share of costs associated with projects that
48 comply with that section. These funds are hereby appropriated for that purpose, but the
49 Department of Environment and Natural Resources shall approve a project before it is eligible
50 to receive any funds under this section.

1 **SECTION 14.22.(l)** Subsection (b) of this section becomes effective October 1,
2 2013, and applies to applications submitted on or after that date. Subsection (f) of this section
3 becomes effective October 1, 2013, and applies to new or transfer certificates of title issued on
4 or after that date. The remainder of this section becomes effective October 1, 2013.
5

6 ENVIRONMENTAL MANAGEMENT COMMISSION

7 **SECTION 14.23.(a)** G.S. 143B-283 reads as rewritten:

8 "**§ 143B-283. Environmental Management Commission – members; selection; removal;
9 compensation; quorum; services.**

10 (a) ~~The Environmental Management Commission shall consist of 13 members
11 appointed by the Governor. The Governor shall select the members so that the membership of
12 the Commission shall consist of:~~

- 13 (1) ~~One who shall be a licensed physician with specialized training and
14 experience in the health effects of environmental pollution;~~
- 15 (2) ~~One who shall, at the time of appointment, be actively connected with the
16 Commission for Public Health or local board of health or have experience in
17 health sciences;~~
- 18 (3) ~~One who shall, at the time of appointment, be actively connected with or
19 have had experience in agriculture;~~
- 20 (4) ~~One who shall, at the time of appointment, be a registered engineer with
21 specialized training and experience in water supply or water or air pollution
22 control;~~
- 23 (5) ~~One who shall, at the time of appointment, be actively connected with or
24 have had experience in the fish and wildlife conservation activities of the
25 State;~~
- 26 (6) ~~One who shall, at the time of appointment, have special training and
27 scientific expertise in hydrogeology or groundwater hydrology;~~
- 28 (7) ~~Three members interested in water and air pollution control, appointed from
29 the public at large;~~
- 30 (8) ~~One who shall, at the time of appointment, be actively employed by, or
31 recently retired from, an industrial manufacturing facility and
32 knowledgeable in the field of industrial air and water pollution control;~~
- 33 (9) ~~One who shall, at the time of appointment, be actively connected with or
34 have had experience in pollution control problems of municipal or county
35 government;~~
- 36 (10) ~~One who shall, at the time of appointment, have special training and
37 scientific expertise in air pollution control and the effects of air pollution;
38 and~~
- 39 (11) ~~One who shall, at the time of appointment, have special training and
40 scientific expertise in freshwater, estuarine, marine biological, or ecological
41 sciences.~~

42 (a1) The Environmental Management Commission shall consist of 15 members as
43 follows:

- 44 (1) One appointed by the Governor who shall be a licensed physician.
- 45 (2) One appointed by the Governor who shall at the time of appointment have
46 special training or scientific expertise in hydrology, water pollution control,
47 or the effects of water pollution.
- 48 (3) One appointed by the Governor who shall at the time of appointment have
49 special training or scientific expertise in hydrology, water pollution control,
50 or the effects of water pollution.

- 1 (4) One appointed by the Governor who shall at the time of appointment have
2 special training or scientific expertise in air pollution control or the effects of
3 air pollution.
- 4 (5) One appointed by the Governor who shall at the time of appointment be
5 actively connected with or have had experience in agriculture.
- 6 (6) One appointed by the Governor who shall at the time of appointment have
7 special training and scientific expertise in freshwater, estuarine, marine
8 biological, or ecological sciences or be actively connected with or have had
9 experience in the fish and wildlife conservation activities of the State.
- 10 (7) One appointed by the Governor who shall at the time of appointment be
11 actively employed by, or recently retired from, an industrial manufacturing
12 facility and shall be knowledgeable in the field of industrial pollution
13 control.
- 14 (8) One appointed by the Governor who shall at the time of appointment be a
15 licensed engineer with specialized training and experience in water supply or
16 water or air pollution control.
- 17 (9) One appointed by the Governor who shall serve at large.
- 18 (10) One appointed by the General Assembly upon recommendation of the
19 Speaker of the House of Representatives in accordance with G.S. 120-121
20 who shall serve at large.
- 21 (11) One appointed by the General Assembly upon recommendation of the
22 Speaker of the House of Representatives in accordance with G.S. 120-121
23 who shall serve at large.
- 24 (12) One appointed by the General Assembly upon recommendation of the
25 Speaker of the House of Representatives in accordance with G.S. 120-121
26 who shall serve at large.
- 27 (13) One appointed by the General Assembly upon recommendation of the
28 President Pro Tempore of the Senate in accordance with G.S. 120-121 who
29 shall serve at large.
- 30 (14) One appointed by the General Assembly upon recommendation of the
31 President Pro Tempore of the Senate in accordance with G.S. 120-121 who
32 shall serve at large.
- 33 (15) One appointed by the General Assembly upon recommendation of the
34 President Pro Tempore of the Senate in accordance with G.S. 120-121 who
35 shall serve at large.

36 (b) ~~Members appointed by the Governor shall serve terms of office of six years.~~ Any
37 appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or
38 disability of a member shall be for the balance of the unexpired term. The Governor may
39 reappoint a member of the Commission to an additional term if, at the time of the
40 reappointment, the member qualifies for membership on the Commission under subdivisions
41 (1) through (9) of subsection (a)(a1) of this section. Appointments by the General Assembly
42 shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be
43 filled in accordance with G.S. 120-122.

44 (b1) The Governor shall have the power to remove any member of the Commission from
45 office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of
46 G.S. 143B-13 of the Executive Organization Act of 1973.

47 (b2) The members of the Commission shall receive per diem and necessary travel and
48 subsistence expenses in accordance with the provisions of G.S. 138-5.

49 (b3) A majority of the Commission shall constitute a quorum for the transaction of
50 business.

1 (b4) All clerical and other services required by the Commission shall be supplied by the
2 Secretary of Environment and Natural Resources.

3 (c) ~~Nine of the members appointed by the Governor under this section shall be persons~~
4 ~~who do not derive any significant portion of their income from persons subject to permits or~~
5 ~~enforcement orders under this Chapter.~~ The Governor shall require adequate disclosure of
6 potential conflicts of interest by members. The Governor, by executive order, shall promulgate
7 criteria regarding conflicts of interest and disclosure thereof for determining the eligibility of
8 persons under this section, subsection, giving due regard to the requirements of federal
9 legislation, and for this purpose may promulgate rules, regulations or guidelines in
10 conformance with those established by any federal agency interpreting and applying provisions
11 of federal law.

12 (c1) All members of the Commission are covered persons for the purposes of Chapter
13 138A of the General Statutes, the State Government Ethics Act. As covered persons, members
14 of the Commission shall comply with the applicable requirements of the State Government
15 Ethics Act, including mandatory training, the public disclosure of economic interests, and
16 ethical standards for covered persons. Members of the Commission shall comply with the
17 provisions of the State Government Ethics Act to avoid conflicts of interest.

18 (d) ~~In addition to the members designated by subsection (a) of this section, the General~~
19 ~~Assembly shall appoint six members, three upon the recommendation of the Speaker of the~~
20 ~~House of Representatives, and three upon the recommendation of the President Pro Tempore of~~
21 ~~the Senate. Appointments by the General Assembly shall be made in accordance with~~
22 ~~G.S. 120-121, and vacancies in those appointments shall be filled in accordance with~~
23 ~~G.S. 120-122. Members appointed by the General Assembly shall serve terms of two years.~~

24 (e) Members of the Commission shall serve terms of four years."

25 **SECTION 14.23.(b)** Transition of Membership of the Environmental Management
26 Commission. –

27 (a) The terms of all members of the Environmental Management Commission serving
28 on January 1, 2013, shall expire on June 30, 2013. A new Commission of 15 members shall be
29 appointed in the manner provided by G.S. 143B-283(a1), as enacted by subsection (a) of this
30 section.

31 (b) Members of the Commission whose qualifications are described by subdivisions (3),
32 (5), (7), (8), (9), (11), (13), and (15) of G.S. 143B-283(a1), as enacted by subsection (a) of this
33 section, shall, notwithstanding G.S. 143B-283(e), as enacted by subsection (a) of this section,
34 be appointed for an initial term of two years and subsequent appointments shall be for four-year
35 terms thereafter. Members of the Commission whose qualifications are described by
36 subdivisions (1), (2), (4), (6), (10), (12), and (14) of G.S. 143B-283(a1), as enacted by
37 subsection (a) of this section, shall be appointed for an initial term of four years and subsequent
38 appointments shall be for four-year terms thereafter. Initial terms shall begin on July 1, 2013,
39 and expire on June 30 of the year of expiration as set forth in this subsection.

40 (c) Members of the Commission appointed to any other State board or commission as a
41 representative of the Commission shall no longer serve as a member of those boards or
42 commissions after this section becomes law, and a new Commission representative shall be
43 appointed as provided by law.

44 45 **COASTAL RESOURCES COMMISSION**

46 **SECTION 14.24.(a)** G.S. 113A-104 reads as rewritten:

47 **"§ 113A-104. Coastal Resources Commission.**

48 (a) Established. – The General Assembly hereby establishes within the Department of
49 Environment and Natural Resources a commission to be designated the Coastal Resources
50 Commission.

1 (b) ~~Composition.— The Coastal Resources Commission shall consist of 15 members~~
2 ~~appointed by the Governor, as follows:~~

- 3 (1) ~~One who shall at the time of appointment be actively connected with or have~~
4 ~~experience in commercial fishing.~~
5 (2) ~~One who shall at the time of appointment be actively connected with or have~~
6 ~~experience in wildlife or sports fishing.~~
7 (3) ~~One who shall at the time of appointment be actively connected with or have~~
8 ~~experience in marine ecology.~~
9 (4) ~~One who shall at the time of appointment be actively connected with or have~~
10 ~~experience in coastal agriculture.~~
11 (5) ~~One who shall at the time of appointment be actively connected with or have~~
12 ~~experience in coastal forestry.~~
13 (6) ~~One who shall at the time of appointment be actively connected with or have~~
14 ~~experience in coastal land development.~~
15 (7) ~~One who shall at the time of appointment be actively connected with or have~~
16 ~~experience in marine-related business (other than fishing and wildlife).~~
17 (8) ~~One who shall at the time of appointment be actively connected with or have~~
18 ~~experience in engineering in the coastal area.~~
19 (9) ~~One who shall at the time of appointment be actively associated with a State~~
20 ~~or national conservation organization.~~
21 (10) ~~One who shall at the time of appointment be actively connected with or have~~
22 ~~experience in financing of coastal land development.~~
23 (11) ~~Two who shall at the time of appointment be actively connected with or~~
24 ~~have experience in local government within the coastal area.~~
25 (12) ~~Three at large members.~~

26 **(b1)** Composition. – The Coastal Resources Commission shall consist of 13 members as
27 follows:

- 28 (1) One appointed by the Governor who shall at the time of appointment be a
29 coastal property owner or experienced in land development.
30 (2) One appointed by the Governor who shall at the time of appointment be a
31 coastal property owner or experienced in land development.
32 (3) One appointed by the Governor who shall at the time of appointment be
33 actively connected with or have experience in engineering in the coastal area
34 or a marine-related science.
35 (4) One appointed by the Governor who shall at the time of appointment be
36 actively connected with or have experience in engineering in the coastal area
37 or a marine-related science.
38 (5) One appointed by the Governor who shall at the time of appointment be
39 actively connected with or have experience in coastal-related business.
40 (6) One appointed by the Governor who shall at the time of appointment be
41 actively connected with or have experience in local government within the
42 coastal area.
43 (7) One appointed by the Governor who shall at the time of appointment be
44 actively connected with or have experience in coastal agriculture.
45 (8) One appointed by the Governor who shall at the time of appointment be
46 actively connected with or have experience in commercial fishing.
47 (9) One appointed by the Governor who shall at the time of appointment be
48 actively connected with or have experience in coastal forestry.
49 (10) One appointed by the General Assembly upon recommendation of the
50 Speaker of the House of Representatives in accordance with G.S. 120-121

1 who shall at the time of appointment be actively connected with or have
2 experience in sports fishing.

3 (11) One appointed by the General Assembly upon recommendation of the
4 Speaker of the House of Representatives in accordance with G.S. 120-121
5 who shall serve at large.

6 (12) One appointed by the General Assembly upon recommendation of the
7 President Pro Tempore of the Senate in accordance with G.S. 120-121 who
8 shall at the time of appointment be actively connected with or have
9 experience in wildlife.

10 (13) One appointed by the General Assembly upon recommendation of the
11 President Pro Tempore of the Senate in accordance with G.S. 120-121 who
12 shall serve at large.

13 (c) Appointment of Members. – As used in this section, the term "appointing authority"
14 means the Governor in the case of members appointed by the Governor and means the General
15 Assembly in the case of members appointed by the General Assembly. Appointments to the
16 Commission shall be made to provide knowledge and experience in a diverse range of coastal
17 interests. The members of the Commission shall serve and act on the Commission solely for the
18 best interests of the public and public trust, and shall bring their particular knowledge and
19 experience to the Commission for that end alone. Counties and cities in the coastal area may
20 designate and transmit to the appointing authorities no later than May 1 of each even-numbered
21 year qualified persons in the categories set out in subsection (b1) of this section corresponding
22 to the Commission positions to be filled that year.

23 ~~The Governor shall appoint in his sole discretion those members of the Commission whose~~
24 ~~qualifications are described in subdivisions (6) and (10), and one of the three members~~
25 ~~described in subdivision (12) of subsection (b) of this section.~~

26 ~~The remaining members of the Commission shall be appointed by the Governor after~~
27 ~~completion of the nominating procedures prescribed by subsection (d) of this section.~~

28 (c1) The members of the Commission whose qualifications are described in subdivisions
29 (1) through (5), (9), and (11); (3), (6), (7), (8), (9), (11), and (12) of subsection (b1) of this
30 section shall be persons who do not derive any significant portion of their income from land
31 development, construction, real estate sales, or lobbying and do not otherwise serve as agents
32 for development-related business activities. The Governor shall require adequate disclosure of
33 potential conflicts of interest by these members. The Governor, by executive order, shall
34 promulgate criteria regarding conflicts of interest and disclosure thereof for determining the
35 eligibility of persons under this section-subsection.

36 (c2) All members of the Commission are covered persons for the purposes of Chapter
37 138A of the General Statutes, the State Government Ethics Act. As covered persons, members
38 of the Commission shall comply with the applicable requirements of the State Government
39 Ethics Act, including mandatory training, the public disclosure of economic interests, and
40 ethical standards for covered persons. Members of the Commission shall comply with the
41 provisions of the State Government Ethics Act to avoid conflicts of interest.

42 (d) ~~Nominations for Membership. — On or before May 1 in every even-numbered year~~
43 ~~the Governor shall designate and transmit to the board of commissioners in each county in the~~
44 ~~coastal area four nominating categories applicable to that county for that year. Said nominating~~
45 ~~categories shall be selected by the Governor from among the categories represented,~~
46 ~~respectively by subdivisions (1), (2), (3), (4), (5), (7), (8), (9), (11) — two persons, and (12) —~~
47 ~~two persons, of subsection (b) of this section (or so many of the above listed paragraphs as may~~
48 ~~correspond to vacancies by expiration of term that are subject to being filled in that year). On or~~
49 ~~before June 1 in every even-numbered year the board of commissioners of each county in the~~
50 ~~coastal area shall nominate (and transmit to the Governor the names of) one qualified person in~~
51 ~~each of the four nominating categories that was designated by the Governor for that county for~~

1 that year. In designating nominating categories from biennium to biennium, the Governor shall
2 equitably rotate said categories among the several counties of the coastal area as in his
3 judgment he deems best; and he shall assign, as near as may be, an even number of nominees to
4 each nominating category and shall assign in his best judgment any excess above such even
5 number of nominees. On or before June 1 in every even numbered year the governing body of
6 each incorporated city within the coastal area shall nominate and transmit to the Governor the
7 name of one person as a nominee to the Commission. In making nominations, the boards of
8 county commissioners and city governing bodies shall give due consideration to the nomination
9 of women and minorities. The Governor shall appoint 12 persons from among said city and
10 county nominees to the Commission. The several boards of county commissioners and city
11 governing bodies shall transmit the names, addresses, and a brief summary of the qualifications
12 of their nominees to the Governor on or before June 1 in each even-numbered year, beginning
13 in 1974; provided, that the Governor, by registered or certified mail, shall notify the chairman
14 or the mayors of the said local governing boards by May 20 in each such even-numbered year
15 of the duties of local governing boards under this sentence. If any board of commissioners or
16 city governing body fails to transmit its list of nominations to the Governor by June 1, the
17 Governor may add to the nominations a list of qualified nominees in lieu of those that were not
18 transmitted by the board of commissioners or city governing body; Provided however, the
19 Governor may not add to the list a nominee in lieu of one not transmitted by an incorporated
20 city within the coastal area that neither has a population of 2,000 or more nor is contiguous
21 with the Atlantic Ocean. Within the meaning of this section, the "governing body" is the mayor
22 and council of a city as defined in G.S. 160A-66. The population of cities shall be determined
23 according to the most recent annual estimates of population as certified to the Secretary of
24 Revenue by the Secretary of Administration.

25 (e) Residential Qualifications. — All nominees of the several boards of county
26 commissioners and city governing bodies must reside within the coastal area, but need not
27 reside in the county from which they were nominated. No more than one of those members
28 appointed by the Governor from among said nominees may reside in a particular county. No
29 more than two members of the entire Commission, at any time, may reside in a particular
30 county. No more than two members of the entire Commission, at any time, may reside outside
31 the coastal area.

32 (f) Office May Be Held Concurrently with Others. — Membership on the Coastal
33 Resources Commission is hereby declared to be an office that may be held concurrently with
34 other elective or appointive offices in addition to the maximum number of offices permitted to
35 be held by one person under G.S. 128-1.1.

36 (g) Terms. — The members shall serve staggered terms of office of four years. At the
37 expiration of each member's term, the Governor appointing authority shall reappoint or replace
38 the member with a new member of like qualification ~~(as specified in subsection (b)(b1)~~ of
39 this section), in the manner provided by subsections (e) and (d) of this section. The initial term
40 shall be determined by the Governor in accordance with customary practice but eight of the
41 initial members shall be appointed for two years and seven for four years.section.

42 (h) Vacancies. — In the event of a vacancy arising otherwise than by expiration of term,
43 the Governor appointing authority shall appoint a successor of like qualification ~~(as specified~~
44 in subsection ~~(b)(b1)~~ of this section)section who shall then serve the remainder of his
45 predecessor's term. ~~When any such vacancy arises, the Governor shall immediately notify the~~
46 ~~board of commissioners of each county in the coastal area and the governing body of each~~
47 ~~incorporated city within the coastal area. Within 30 days after receipt of such notification each~~
48 ~~such county board and city governing body shall nominate and transmit to the Governor the~~
49 ~~name and address of one person who is qualified in the category represented by the position to~~
50 ~~be filled, together with a brief summary of the qualifications of the nominee. The Governor~~
51 ~~shall make the appointment from among said city and county nominees. If any county board or~~

1 city governing body fails to make a timely transmittal of its nominee, the Governor may add to
2 the nominations a qualified person in lieu of said nominee; Provided however, the Governor
3 may not add to the list a nominee in lieu of one not transmitted by an incorporated city within
4 the coastal area that neither has a population of 2,000 or more nor is contiguous with the
5 Atlantic Ocean.

6 (i) Officers. – The chairman shall be designated by the Governor from among the
7 members of the Commission to serve as chairman at the pleasure of the Governor. The
8 vice-chairman shall be elected by and from the members of the Commission and shall serve for
9 a term of two years or until the expiration of his ~~the vice-chairman's~~ regularly appointed term.

10 (j) Compensation. – The members of the Commission shall receive per diem and
11 necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

12 ~~(k) In making appointments to and filling vacancies upon the Commission, the~~
13 ~~Governor shall give due consideration to securing appropriate representation of women and~~
14 ~~minorities.~~

15 (l) Attendance. – Regular attendance at Commission meetings is a duty of each
16 member. The Commission shall develop procedures for declaring any seat on the Commission
17 to be vacant upon failure by a member to perform this duty.

18 (m) Quorum. – A majority of the Commission shall constitute a quorum."

19 **SECTION 14.24.(b)** Transition of Membership of the Coastal Resources
20 Commission. – Except as otherwise provided in this section, the terms of all members of the
21 Coastal Resources Commission serving on January 1, 2013, shall expire June 30, 2013. A new
22 Commission of 13 members shall be appointed in the manner provided by G.S. 113A-104(b1),
23 as enacted by subsection (a) of this section. Members appointed in the manner provided by
24 G.S. 113A-104(b1), as enacted by subsection (a) of this section, shall be appointed no later than
25 July 1, 2013.

26 (1) The member serving pursuant to G.S. 113A-104(b)(1) on January 1, 2013,
27 shall continue to serve pursuant to G.S. 113A-104(b1)(8), as enacted by
28 subsection (a) of this section, until June 30, 2014.

29 (2) The member serving pursuant to G.S. 113A-104(b)(2) on January 1, 2013,
30 shall continue to serve pursuant to G.S. 113A-104(b1)(10), as enacted by
31 subsection (a) of this section, until June 30, 2014.

32 (3) The member serving pursuant to G.S. 113A-104(b)(11) on January 1, 2013,
33 whose term would otherwise expire on June 30, 2014, shall continue to serve
34 pursuant to G.S. 113A-104(b1)(6), as enacted by subsection (a) of this
35 section, until June 30, 2014.

36 (4) The member serving pursuant to G.S. 113A-104(b)(5) on January 1, 2013,
37 whose term would otherwise expire on June 30, 2014, shall continue to serve
38 pursuant to G.S. 113A-104(b1)(9), as enacted by subsection (a) of this
39 section, until June 30, 2014.

40 Members of the Commission whose qualifications are described by subdivisions (1), (3),
41 (5), (7), (11), and (13) of G.S. 113A-104(b1), as enacted by subsection (a) of this section, shall
42 be appointed for an initial term of two years, and subsequent appointments shall be for
43 four-year terms thereafter. Members of the Commission whose qualifications are described by
44 subdivisions (2), (4), (6), (8), (9), (10), and (12) of G.S. 113A-104(b1), as enacted by
45 subsection (a) of this section, shall be appointed for an initial term of one year, and subsequent
46 appointments shall be for four-year terms thereafter. Initial terms shall expire on June 30 of the
47 year of expiration.

49 COASTAL RESOURCES ADVISORY COMMISSION

50 **SECTION 14.25.** G.S. 113A-105 reads as rewritten:

51 "**§ 113A-105. Coastal Resources Advisory Council.**

1 (a) Creation. – There is hereby created and established a council to be known as the
2 Coastal Resources Advisory Council.

3 (b) Membership and Terms. – The Coastal Resources Advisory Council shall consist of
4 not more than ~~45-20~~ members appointed or designated as follows:

- 5 (1) ~~Two individuals designated by the Secretary from among the employees of~~
6 ~~the Department;~~
- 7 (1a) ~~The Secretary of Commerce or person designated by the Secretary of~~
8 ~~Commeree;~~
- 9 (2) ~~The Secretary of Administration or person designated by the Secretary of~~
10 ~~Administration;~~
- 11 (3) ~~The Secretary of Transportation or person designated by the Secretary of~~
12 ~~Transportation; and one additional member selected by the Secretary of~~
13 ~~Transportation from the Department of Transportation;~~
- 14 (4) ~~The State Health Director or the person designated by the State Health~~
15 ~~Director;~~
- 16 (5) ~~The Commissioner of Agriculture or person designated by the~~
17 ~~Commissioner of Agriculture;~~
- 18 (6) ~~The Secretary of Cultural Resources or person designated by the Secretary~~
19 ~~of Cultural Resources;~~
- 20 (7) ~~One member from each of the four multi county planning districts of the~~
21 ~~coastal area to be appointed by the lead regional agency of each district;~~
- 22 (8) ~~One representative from each of the counties in the coastal area to be~~
23 ~~designated by the respective boards of county commissioners;~~
- 24 (9) ~~No more than eight additional members representative of cities in the coastal~~
25 ~~area and to be designated by the Commission;~~
- 26 (10) ~~Three members selected by the Commission who are marine scientists or~~
27 ~~technologists;~~
- 28 (11) ~~One member who is a local health director selected by the Commission upon~~
29 ~~the recommendation of the Secretary.~~

30 by the Coastal Resources Commission. Counties and cities in the coastal area may nominate
31 candidates for consideration by the Commission. The terms of all Council members serving on
32 the Council on January 1, 2013, shall expire on June 30, 2013. A new Council shall be
33 appointed in the manner provided by this subsection with terms beginning on July 1, 2013, and
34 expiring on June 30, 2015. Members may be reappointed at the discretion of the Commission,
35 provided that one-half of the membership at the beginning of any two-year term are residents of
36 counties in the coastal area.

37"

38 SEVERANCE TAX ON ENERGY MINERALS; USE OF PROCEEDS

39 **SECTION 14.26.(a)** If Senate Bill 76, 2013 Session, becomes law, then Section 11
40 of Senate Bill 76 reads as rewritten:

41 "SECTION 11. Section 1(b) of this act becomes effective March 1, 2015. Section 3(b) of
42 this act is effective when it becomes law and applies retroactively to October 1, 2012. Sections
43 5(a) through 5(c) of this act are effective for energy minerals sold on or after March 1, 2015;
44 except that G.S. 105-187.76, as enacted by Section 5(a) of this act, becomes effective only if
45 authorized by the General Assembly in the Current Operations and Capital Improvements
46 Appropriations Act of 2013. G.S. 113B-30, enacted by Section 7 of this act, becomes effective
47 only if authorized by the General Assembly in the Current Operations and Capital
48 Improvements Appropriations Act of 2013-2015. The first report due pursuant to G.S. 113B-12,
49 as amended by Section 9(m) of this act, shall be transmitted on or before January 1, 2014.
50 Except as otherwise provided, the remainder of this act is effective when it becomes law."
51

1 **SECTION 14.26.(b)** If Senate Bill 76, 2013 Session, becomes law, the Department
2 of Environment and Natural Resources may, notwithstanding the provisions of
3 G.S. 105-187.76, as enacted by Senate Bill 76, use any proceeds the Department receives from
4 the imposition of the tax on severance of energy minerals imposed under G.S. 105-187.72, as
5 enacted by Senate Bill 76, for the 2013-2014 fiscal year and the 2014-2015 fiscal year for its
6 costs to administer Article 27 of Chapter 113 of the General Statutes, and these funds are
7 appropriated from the General Fund to the Department of Environment and Natural Resources
8 for this purpose.

9 10 **PART XV. DEPARTMENT OF COMMERCE**

11 12 **SET REGULATORY FEE FOR UTILITIES COMMISSION**

13 **SECTION 15.1.(a)** The percentage rate to be used in calculating the public utility
14 regulatory fee under G.S. 62-302(b)(2) is thirteen one-hundredths of one percent (0.13%) for
15 each public utility's North Carolina jurisdictional revenues earned during each quarter that
16 begins on or after July 1, 2013, and on or after July 1, 2014.

17 **SECTION 15.1.(b)** The electric membership corporation regulatory fee imposed
18 under G.S. 62-302(b1) for the 2013-2014 and the 2014-2015 fiscal year is two hundred
19 thousand dollars (\$200,000).

20 21 **INDUSTRIAL COMMISSION FEES/COMPUTER SYSTEM REPLACEMENT**

22 **SECTION 15.2.** For the 2013-2014 fiscal year and the 2014-2015 fiscal year, the
23 Industrial Commission may, in consultation with the State Chief Information Officer, use up to
24 one million eight hundred thousand dollars (\$1,800,000) of available funds in Budget Code
25 24611 to replace the Electronic Document Management System (EDMS).

26 27 **UNEMPLOYMENT INSURANCE RESERVE**

28 **SECTION 15.3.(a)** The Office of State Budget and Management, in conjunction
29 with the Office of the State Controller and the Department of Commerce, shall transfer to the
30 Unemployment Insurance Reserve within the Office of State Budget and Management any
31 unencumbered cash balance as of June 30, 2013, of each of the following special funds within
32 the Department of Commerce and then close each of these special funds:

33 (1) Worker Training Trust Fund (Special Fund Code 64654-6400).

34 (2) Training and Employment Account (Special Fund Code 64655-6601).

35 **SECTION 15.3.(b)** The Office of State Budget and Management, in conjunction
36 with the Office of the State Controller and the Department of Commerce, shall transfer the sum
37 of ten million dollars (\$10,000,000) for the 2013-2014 fiscal year from the Special
38 Employment Security Administration Fund (Fund Code 64650-6100) to the Unemployment
39 Insurance Reserve within the Office of State Budget and Management.

40 41 **EMPLOYMENT SECURITY RESERVE FUND**

42 **SECTION 15.4.(a)** There is appropriated from the Employment Security Reserve
43 Fund to the Department of Commerce, Division of Employment Security, the amount needed
44 for the 2014-2015 fiscal year to fund the interest payment due to the federal government for the
45 debt owed to the U.S. Treasury for unemployment benefits.

46 **SECTION 15.4.(b)** Of the funds credited to and held in the State of North
47 Carolina's account in the Unemployment Trust Fund by the Secretary of the Treasury of the
48 United States pursuant to and in accordance with section 903 of the Social Security Act and
49 pursuant to Title II of Division B of P.L. 111-5, the Assistance for Unemployed Workers and
50 Struggling Families Act, the Department of Commerce, Division of Employment Security, may
51 expend the sum of two hundred five million sixty-three thousand five hundred fifty-two dollars

1 (\$205,063,552) as follows: (i) one hundred million dollars (\$100,000,000) shall be used to
2 design and build the integrated unemployment insurance benefit and tax accounting system and
3 (ii) the remaining funds shall be used for the operation of the unemployment insurance
4 program.

5
6 **WORKFORCE INVESTMENT ACT FUNDS/TRANSFER OF FUNDS TO**
7 **DEPARTMENT OF LABOR**

8 **SECTION 15.5.** Of the Workforce Investment Act funds awarded to the
9 Department of Commerce by the United States Department of Labor, the sum of three hundred
10 fifty thousand dollars (\$350,000) shall be transferred to the Department of Labor for the
11 Apprenticeship Program on a recurring basis for the 2013-2015 biennium.

12
13 **SPECIAL FUNDS TRANSFER/OFFSET COMMERCE ADMINISTRATION**
14 **GENERAL FUND APPROPRIATION**

15 **SECTION 15.6.(a)** The Office of State Budget and Management, in conjunction
16 with the Office of the State Controller and the Department of Commerce, shall transfer the
17 unencumbered cash balances in the following funds as of June 30, 2013, to Commerce
18 Administration (Budget Code 14600-1111):

- 19 (1) 24609-2537 – Energy Research Grants
20 (2) 24609-2535 – NC Green Business Fund

21 **SECTION 15.6.(b)** The Office of State Budget and Management, in conjunction
22 with the Office of the State Controller and the Department of Commerce, shall transfer the
23 unencumbered cash balance in the International Trade Show Special Fund (Budget Code
24 24610-2431) as of June 30, 2013, to Commerce Administration (Budget Code 14600-1111)
25 and, upon the transfer, close the Fund.

26 **SECTION 15.6.(c)** The transfers in subsections (a) and (b) of this section are to
27 offset General Fund appropriations to the Department of Commerce for administration.

28
29 **SECRETARY DESIGNATE SUPERVISOR OF BLNC & INTERNATIONAL TRADE**
30 **DIVISION EMPLOYEES**

31 **SECTION 15.7.** The Secretary of Commerce shall designate the person or persons
32 who shall supervise the employees in the following agency or division within the Department:
33 (i) Business Link North Carolina; and (ii) International Trade Division. The person or persons
34 designated under this section shall have the powers and duties authorized by the Secretary.

35
36 **COMMON FOLLOW-UP/CONTINUATION REVIEW**

37 **SECTION 15.8.(a)** The Department of Commerce, Labor and Economic Analysis
38 Division (LEAD), shall conduct a continuation review of the Common Follow-Up Information
39 Management System (hereinafter "Common Follow-Up") created pursuant to G.S. 96-32.
40 LEAD shall report the preliminary findings of the continuation review to the Fiscal Research
41 Division no later than December 1, 2013, and shall submit a final report to the Joint Legislative
42 Commission on Governmental Operations, the Senate Appropriations Committee on Natural
43 and Economic Resources, and the House Appropriations Subcommittee on Natural and
44 Economic Resources no later than March 1, 2014.

45 **SECTION 15.8.(b)** The continuation review report required by subsection (a) of
46 this section shall include the following information:

- 47 (1) A description of Common Follow-Up and the goals of the program.
48 (2) The statutory objectives for Common Follow-Up and the problem or need
49 addressed.
50 (3) The extent to which the objectives of Common Follow-Up have been
51 achieved.

- 1 (4) Any functions or programs of Common Follow-Up performed without
- 2 specific statutory authority.
- 3 (5) The performance measures for Common Follow-Up and the process by
- 4 which the performance measures determine efficiency and effectiveness.
- 5 (6) Recommendations for statutory, budgetary, or administrative changes
- 6 needed to improve efficiency and effectiveness of services delivered to the
- 7 public.
- 8 (7) The consequences of discontinuing funding.
- 9 (8) Recommendations for improving services or reducing costs or duplication.
- 10 (9) The identification of policy issues that should be brought to the attention of
- 11 the General Assembly.
- 12

13 **MARKETING STRATEGY TO PROMOTE NC**

14 **SECTION 15.9.** The Department of Commerce, Division of Tourism, Film, and
15 Sports Development, shall revise its current marketing strategies to develop and execute a
16 comprehensive national and international advertising, promotion, and public relations strategy
17 to promote the State as a great place to live, work, and play. The Division shall continue to
18 work closely with tourism destination marketing organizations, private businesses, including
19 hotels, restaurants, and attractions, nonprofits, other State agencies, and other organizations and
20 entities to collaborate, plan, and leverage resources in order to accomplish the goals of the
21 comprehensive advertising and promotions strategy.
22

23 **RURAL ECONOMIC DEVELOPMENT DIVISION CREATED**

24 **SECTION 15.10.(a)** Article 10 of Chapter 143B of the General Statutes is
25 amended by adding a new Part to read as follows:

26 "Part 22. Rural Economic Development Division.

27 **"§ 143B-472.126. Rural Economic Development Division created.**

28 There is hereby created in the Department of Commerce a division to be known as the
29 Rural Economic Development Division. The Secretary shall appoint an Assistant Secretary to
30 administer this Division, who shall be subject to the direction and supervision of the Secretary.
31 The Assistant Secretary, subject to the approval of the Secretary, shall select a professional
32 staff of qualified and competent employees to assist in the administration of the duties and
33 responsibilities prescribed in this Part.

34 **"§ 143B-472.127. Programs administered.**

35 (a) The Rural Economic Development Division shall be responsible for administering
36 the program whereby economic development grants or loans are awarded by the Rural
37 Infrastructure Authority as provided in G.S. 143B-472.128 to local government units of the
38 counties that have one of the 80 highest rankings under G.S. 143B-437.08 after the adjustment
39 of that section. The funds available for grants or loans under this program may be used as
40 follows:

- 41 (1) To construct critical water and wastewater facilities or to provide other
42 infrastructure needs, including, but not limited to, natural gas, broadband,
43 and rail, to sites where these facilities will generate private job-creating
44 investment. The grants under this subdivision shall not be subject to the
45 provisions of G.S. 143-355.4.
- 46 (2) To provide matching grants or loans to local government units in an
47 economically distressed county that will productively reuse vacant buildings
48 and properties or construct or expand rural health care facilities, with priority
49 given to towns or communities with populations of less than 5,000. For
50 purposes of this section, the term "economically distressed county" has the
51 same meaning as in G.S. 143B-437.01.

1 (3) Recipients of grant funds under this Part shall contribute a cash match for
2 the grant that is equivalent to at least five percent (5%) of the grant amount.
3 The cash match shall come from local resources and may not be derived
4 from other State or federal grant funds.

5 (4) In awarding grants under this Part, preference shall be given to a project
6 involving a resident company. For purposes of this Part, the term "resident
7 company" means a company that has paid unemployment taxes or income
8 taxes in this State and whose principal place of business is located in this
9 State. An application for a project that serves an economically distressed
10 area shall have priority over a project that does not. A grant to assist with
11 water infrastructure needs is not subject to the provisions of G.S. 143-355.4.

12 (5) Under no circumstances shall a grant for a project be awarded in excess of
13 twelve thousand five hundred dollars (\$12,500) per projected job created or
14 saved.

15 (b) In addition to the duties under subsection (a) of this section, the Rural Economic
16 Development Division shall also be responsible for (i) administering the program whereby
17 local government units are awarded funds by the Rural Infrastructure Authority from the Utility
18 Account under G.S. 143B-437.01 and (ii) administering the program whereby local government
19 units are awarded funds by the Rural Infrastructure Authority for economic development
20 projects from community development block grant funds.

21 (c) The Rural Economic Development Division may make recommendations to the
22 Rural Infrastructure Authority as to any matters related to the administration of the programs
23 under subsections (a) and (b) of this section.

24 **"§ 143B-472.128. Rural Infrastructure Authority created; powers.**

25 (a) Creation. – The Rural Infrastructure Authority is created within the Department of
26 Commerce.

27 (b) Membership. – The Authority shall consist of 10 members, who shall be appointed
28 as follows:

29 (1) The Secretary of Commerce, who shall be chair. However, the Secretary
30 shall vote on matters before the Authority only in the case of a tie.

31 (2) Three members appointed by the General Assembly upon the
32 recommendation of the President Pro Tempore of the Senate; one of whom
33 shall represent a rural county in the eastern part of the State and shall serve
34 for a term of one year; one of whom shall represent a rural county in the
35 central part of the State and shall serve for a term of two years; and one of
36 whom shall represent a rural county in the western part of the State and shall
37 serve for a term of three years.

38 (3) Three members appointed by the General Assembly upon the
39 recommendation of the Speaker of the House of Representatives; one of
40 whom shall represent a rural county in the eastern part of the State and shall
41 serve for a term of three years; one of whom shall represent a rural county in
42 the central part of the State and shall serve for a term of one year; and one of
43 whom shall represent a rural county in the western part of the State and shall
44 serve for a term of two years.

45 (4) Three members appointed by the Governor; one of whom shall represent a
46 rural county in the eastern part of the State and shall serve for a term of two
47 years; one of whom shall represent a rural county in the central part of the
48 State and shall serve for a term of three years; and one of whom shall
49 represent a rural county in the western part of the State and shall serve for a
50 term of one year.

1 (c) Terms. – Upon the expiration of the terms provided for in subsection (b) of this
2 section, each member shall serve for a term of three years. No member of the Authority shall
3 serve for more than two consecutive terms, but a person who has been a member for two
4 consecutive terms may be reappointed after being off the Authority for a period of at least three
5 years. An initial term as provided in subsection (b) of this section that is two years or less shall
6 not be counted in determining the limitation on consecutive terms. Initial terms shall commence
7 on July 1, 2013.

8 (d) Compensation. – Authority members shall receive no salary as a result of serving on
9 the Authority, but are entitled to per diem and allowances in accordance with G.S. 138-5 and
10 G.S. 138-6, as appropriate.

11 (e) Meetings. – The Secretary shall convene the first meeting of the Authority within 30
12 days after the appointment of Authority members under subsection (b) of this section. Meetings
13 shall be held as necessary as determined by the Authority.

14 (f) Quorum. – A majority of the members of the Authority constitutes a quorum for the
15 transaction of business. A vacancy in the membership of the Authority does not impair the right
16 of the quorum to exercise all rights and to perform all duties of the Authority.

17 (g) Vacancies. – A vacancy on the Authority shall be filled in the same manner in
18 which the original appointment was made, and the term of the member filling the vacancy shall
19 be for the balance of the unexpired term. Vacancies in appointments made by the General
20 Assembly shall be filled in accordance with G.S. 120-122.

21 (h) Removal. – Members may be removed in accordance with G.S. 143B-13. A member
22 who misses three consecutive meetings of the Authority may be removed for nonfeasance.

23 (i) Powers and Duties. – The Authority has the following powers and duties:

24 (1) To receive and review applications from local government units for grants or
25 loans authorized under G.S. 143B-472.127.

26 (2) To award grants or loans as provided in G.S. 143B-472.127.

27 (3) To formulate policies and priorities for grant and loan making under
28 G.S. 143B-472.127.

29 (4) To determine ways in which the Rural Economic Development Division can
30 aid local government units in meeting the costs for preliminary project
31 planning needed for making an application for a grant or loan under
32 G.S. 143B-472.127.

33 (5) To determine ways in which the Rural Economic Development Division can
34 effectively disseminate information to local government units about the
35 availability of grants or loans under G.S. 143B-472.127, the application and
36 review process, and any other information that may be deemed useful to
37 local government units in obtaining grants or loans.

38 (6) To review from time to time the effectiveness of the grant or loan programs
39 under G.S. 143B-472.127 and to determine ways in which the programs may
40 be improved to better serve local government units.

41 (7) No later than September 1 of each year, to submit a report to the Senate
42 Appropriations Committee on Natural and Economic Resources, the House
43 Appropriations Subcommittee on Natural and Economic Resources, and the
44 Fiscal Research Division that details all of the following:

45 a. Total number of awards made in the previous fiscal year.

46 b. Geographic display of awards made.

47 c. Total number of jobs created in the previous fiscal year.

48 d. Recommended policy changes that would benefit economic
49 development in rural areas of the State."

50 **SECTION 15.10.(b)** For the 2013-2015 biennium, the Department of Commerce,
51 Rural Economic Development Division, as established in subsection (a) of this section, may

1 use up to three percent (3%) of the funds appropriated in this act to the programs to be
2 administered by the Division, and described in subsection (a) of this section, to cover the
3 Division's expenses in administering those programs.

4 **SECTION 15.10.(c)** G.S. 120-123 reads as rewritten:

5 "**§ 120-123. Service by members of the General Assembly on certain boards and**
6 **commissions.**

7 No member of the General Assembly may serve on any of the following boards or
8 commissions:

9 ...

10 (80) The Rural Infrastructure Authority, as created by G.S. 143B-472.128."

11 **SECTION 15.10.(d)** G.S. 126-5 reads as rewritten:

12 "**§ 126-5. Employees subject to Chapter; exemptions.**

13 ...

14 (c1) Except as to the provisions of Articles 6 and 7 of this Chapter, the provisions of this
15 Chapter shall not apply to:

16 ...

17 (30) Employees of the Department of Commerce employed in the Rural
18 Economic Development Division.

19"

20 **SECTION 15.10.(e)** G.S. 143B-433 reads as rewritten:

21 "**§ 143B-433. Department of Commerce – organization.**

22 The Department of Commerce shall be organized to include:

23 (1) The following agencies:

24 ...

25 w. The Rural Economic Development Division.

26 x. The Rural Infrastructure Authority.

27"

29 PROSPERITY ZONES/RURAL SATELLITE OFFICES WITHIN ZONES

30 **SECTION 15.11.(a)** If Senate Bill 127, 2013 Regular Session, becomes law, of the
31 funds appropriated in this act to the Department of Commerce for the Rural Economic
32 Development Division, the Department shall use up to one million four hundred thousand
33 dollars (\$1,400,000) in each year of the 2013-2015 biennium to establish one primary office in
34 each of the Collaboration for Prosperity Zones described in Senate Bill 127 for the purpose of
35 enhancing collaboration and cooperation between governmental agencies, planning, use of
36 resources, and improved efficiency at a regional level.

37 **SECTION 15.11.(b)** If Senate Bill 127, 2013 Regular Session, becomes law, of the
38 funds appropriated in this act to the Department of Commerce for the Rural Economic
39 Development Division, the Department shall use up to one million nine hundred twenty
40 thousand dollars (\$1,920,000) in the 2013-2014 fiscal year and up to two million three hundred
41 twenty thousand dollars (\$2,320,000) in the 2014-2015 fiscal year to establish at least one
42 satellite office in a rural area within each Collaboration for Prosperity Zone. The primary office
43 and rural satellite office in the Zone shall collaborate to support new business recruitment and
44 existing business and industry in the rural areas of the Zone.

45 **SECTION 15.11.(c)** If Senate Bill 127, 2013 Regular Session, becomes law, the
46 Secretary of Commerce shall determine the person or persons to whom the Department of
47 Commerce employees working in the Collaboration for Prosperity Zones, including rural
48 satellite offices, shall report. The Secretary shall also determine the appropriate staffing
49 requirements for each rural satellite office.

50 **SECTION 15.11.(d)** If Senate Bill 127, 2013 Regular Session, does not become
51 law, the Secretary of Commerce, in conjunction with the Assistant Secretary of Commerce in

1 charge of the Rural Economic Development Division shall establish regional offices in rural
2 areas across the State to support new business recruitment and existing business and industry in
3 those rural areas. Each regional office shall have at least one full-time employee, who shall
4 report to the Assistant Secretary of Commerce, Rural Economic Development Division.

5
6 **LEAD/DEVELOP STANDARDIZED PERFORMANCE METRIC FOR NONPROFITS**

7 **SECTION 15.12.** The Department of Commerce, Labor and Economic Analysis
8 Division (LEAD), shall develop a standardized performance metric to evaluate whether a
9 nonprofit allocated State funds by the Department in the 2013-2015 biennium has achieved its
10 own goals or performance standards. The metric shall include standards for determining
11 whether jobs were actually created, grants were awarded, or loans were made. The information
12 obtained as a result of the metric shall be used by the General Assembly in determining
13 whether to fund the nonprofits in future fiscal years. In order to be eligible to receive State
14 funds, each nonprofit surveyed shall provide to LEAD any information requested to help
15 develop the metric provided for in this section.

16
17 **CDBG FUNDS/COMMERCE REPEAL RULES MORE RESTRICTIVE THAN HUD**
18 **RULES**

19 **SECTION 15.13.** Rules adopted by the Department of Commerce related to the
20 receipt, distribution, or use of Community Development Block Grant (CDBG) funds shall not
21 be more restrictive than rules and regulations promulgated by the United States Department of
22 Housing and Urban Development (HUD) related to the receipt, distribution, or use of CDBG
23 funds. The Department of Commerce shall review all rules adopted by the Department related
24 to the receipt, distribution, or use of CDBG funds, and shall repeal any rules that are more
25 restrictive than HUD rules related to the receipt, distribution, or use of CDBG funds. During
26 the period in which rules are being reviewed as provided in this section, the Department shall
27 not enforce any rules related to the receipt, distribution, or use of CDBG funds that are more
28 restrictive than HUD rules related to the receipt, distribution, or use of CDBG funds.

29
30 **NER BLOCK GRANTS/2014 AND 2015 PROGRAM YEARS**

31 **SECTION 15.14.(a)** Appropriations from federal block grant funds are made for
32 the fiscal years ending June 30, 2014, and June 30, 2015, according to the following schedule:

33 **COMMUNITY DEVELOPMENT BLOCK GRANT**

34		
35	01. State Administration	\$ 1,275,000
36		
37	02. Economic Development	10,737,500
38		
39	03. Infrastructure	30,937,500
40		

41 **TOTAL COMMUNITY DEVELOPMENT**

42 **BLOCK GRANT – 2014 Program Year** **\$ 42,950,000**

43 **2015 Program Year** **\$ 42,950,000**

44 **SECTION 15.14.(b)** Decreases in Federal Fund Availability. – If federal funds are
45 reduced below the amounts specified above after the effective date of this act, then every
46 program in each of these federal block grants shall be reduced by the same percentage as the
47 reduction in federal funds.

48 **SECTION 15.14.(c)** Increases in Federal Fund Availability for Community
49 Development Block Grant. – Any block grant funds appropriated by the Congress of the United
50 States in addition to the funds specified in this section shall be expended as follows: each

1 program category under the Community Development Block Grant shall be increased by the
2 same percentage as the increase in federal funds.

3 **SECTION 15.14.(d)** Limitations on Community Development Block Grant Funds.
4 – Of the funds appropriated in this section for the Community Development Block Grant, the
5 following shall be allocated in each category for each program year: up to one million two
6 hundred seventy-five thousand dollars (\$1,275,000) may be used for State Administration; up
7 to ten million seven hundred thirty-seven thousand five hundred dollars (\$10,737,500) may be
8 used for Economic Development; and up to thirty million nine hundred thirty-seven thousand
9 five hundred dollars (\$30,937,500) may be used for Infrastructure. If federal block grant funds
10 are reduced or increased by the Congress of the United States after the effective date of this act,
11 then these reductions or increases shall be allocated in accordance with subsection (b) or (c) of
12 this section, as applicable.

13 **SECTION 15.14.(e)** The Department of Commerce shall consult with the Joint
14 Legislative Commission on Governmental Operations prior to reallocating Community
15 Development Block Grant Funds. Notwithstanding the provisions of this subsection, whenever
16 the Director of the Budget finds that:

- 17 (1) A reallocation is required because of an emergency that poses an imminent
18 threat to public health or public safety, the Director of the Budget may
19 authorize the reallocation without consulting the Commission. The
20 Department of Commerce shall report to the Commission on the reallocation
21 no later than 30 days after it was authorized and shall identify in the report
22 the emergency, the type of action taken, and how it was related to the
23 emergency.
- 24 (2) The State will lose federal block grant funds or receive less federal block
25 grant funds in the next fiscal year unless a reallocation is made, the
26 Department of Commerce shall provide a written report to the Commission
27 on the proposed reallocation and shall identify the reason that failure to take
28 action will result in the loss of federal funds. If the Commission does not
29 hear the issue within 30 days of receipt of the report, the Department may
30 take the action without consulting the Commission.

31 **SECTION 15.14.(f)** By September 1, 2013, and September 1, 2014, the Division
32 of Community Assistance, Department of Commerce, shall report to the Joint Legislative
33 Commission on Governmental Operations and the Fiscal Research Division on the use of
34 Community Development Block Grant Funds appropriated in the prior fiscal year. The report
35 shall include the following:

- 36 (1) A discussion of each of the categories of funding and how the categories
37 were selected, including information on how a determination was made that
38 there was a statewide need in each of the categories.
- 39 (2) Information on the number of applications that were received in each
40 category and the total dollar amount requested in each category.
- 41 (3) A list of grantees, including the grantee's name, county, category under
42 which the grant was funded, the amount awarded, and a narrative description
43 of the project.

44 **SECTION 15.14.(g)** For purposes of this section, eligible activities under the
45 category of Infrastructure in subsection (a) of this section are limited to the installation of
46 public water or sewer lines and improvements to water or sewer treatment plants that have
47 specific problems such as being under moratoriums or special orders of consent.
48 Notwithstanding the provisions of subsection (e) of this section, funds allocated to the
49 Infrastructure category in subsection (a) of this section shall not be reallocated to any other
50 category.

1 **NER BLOCK GRANTS/2013 PROGRAM YEAR**

2 **SECTION 15.15.(a)** Section 14.1 of S.L. 2011-145, as amended by Section 13.1 of
3 S.L. 2012-142, reads as rewritten:

4 **"SECTION 14.1.(a)** Appropriations from federal block grant funds are made for the fiscal
5 year ending June 30, 2013, according to the following schedule:

6
7 **COMMUNITY DEVELOPMENT BLOCK GRANT**

8			
9	01. State Administration	\$1,000,000	<u>\$1,275,000</u>
10			
11	03. Scattered Site Housing		7,200,000
12			
13	04. Economic Development	7,000,000	<u>10,625,000</u>
14			
15	05. Small Business/Entrepreneurship		2,500,000
16			
17	06. NC Catalyst		4,500,000
18			
19	07. Infrastructure	20,300,000	<u>30,600,000</u>
20			

21 **TOTAL COMMUNITY DEVELOPMENT**

22 **BLOCK GRANT – 2013 Program Year** \$42,500,000

23 **"SECTION 14.1.(b)** Decreases in Federal Fund Availability. – If federal funds are reduced
24 below the amounts specified above after the effective date of this act, then every program in
25 each of these federal block grants shall be reduced by the same percentage as the reduction in
26 federal funds.

27 **"SECTION 14.1.(c)** Increases in Federal Fund Availability for Community Development
28 Block Grant. – Any block grant funds appropriated by the Congress of the United States in
29 addition to the funds specified in this section shall be expended as follows: each program
30 category under the Community Development Block Grant shall be increased by the same
31 percentage as the increase in federal funds.

32 **"SECTION 14.1.(d)** Limitations on Community Development Block Grant Funds. – Of
33 the funds appropriated in this section for the Community Development Block Grant, the
34 following shall be allocated in each category for each program year: up to ~~one million dollars~~
35 ~~(\$1,000,000)~~ one million two hundred seventy-five thousand dollars (\$1,275,000) may be used
36 for State Administration; ~~up to seven million two hundred thousand dollars (\$7,200,000)~~ may
37 ~~be used for Scattered Site Housing;~~ up to seven million dollars (\$7,000,000) ten million six
38 hundred twenty-five thousand dollars (\$10,625,000) may be used for Economic Development;
39 ~~up to two million five hundred thousand dollars (\$2,500,000)~~ may be used for Small
40 ~~Business/Entrepreneurship;~~ up to four million five hundred thousand dollars (\$4,500,000) shall
41 ~~be used for NC Catalyst;~~ and up to twenty million three hundred thousand dollars
42 ~~(\$20,300,000)~~ thirty million six hundred thousand dollars (\$30,600,000) may be used for
43 Infrastructure. If federal block grant funds are reduced or increased by the Congress of the
44 United States after the effective date of this act, then these reductions or increases shall be
45 allocated in accordance with subsection (b) or (c) of this section, as applicable.

46 **"SECTION 14.1.(e)** The Department of Commerce shall consult with the Joint Legislative
47 Commission on Governmental Operations prior to reallocating Community Development
48 Block Grant Funds. Notwithstanding the provisions of this subsection, whenever the Director
49 of the Budget finds that:

- 50 (1) A reallocation is required because of an emergency that poses an imminent
51 threat to public health or public safety, the Director of the Budget may

1 authorize the reallocation without consulting the Commission. The
2 Department of Commerce shall report to the Commission on the reallocation
3 no later than 30 days after it was authorized and shall identify in the report
4 the emergency, the type of action taken, and how it was related to the
5 emergency.

- 6 (2) The State will lose federal block grant funds or receive less federal block
7 grant funds in the next fiscal year unless a reallocation is made, the
8 Department of Commerce shall provide a written report to the Commission
9 on the proposed reallocation and shall identify the reason that failure to take
10 action will result in the loss of federal funds. If the Commission does not
11 hear the issue within 30 days of receipt of the report, the Department may
12 take the action without consulting the Commission.

13 **"SECTION 14.1.(f)** By ~~September 1, 2012~~, September 1, 2013, the Division of
14 Community Assistance, Department of Commerce, shall report to the Joint Legislative
15 Commission on Governmental Operations and the Fiscal Research Division on the use of
16 Community Development Block Grant Funds appropriated in the prior fiscal year. The report
17 shall include the following:

- 18 (1) A discussion of each of the categories of funding and how the categories
19 were selected, including information on how a determination was made that
20 there was a statewide need in each of the categories.
21 (2) Information on the number of applications that were received in each
22 category and the total dollar amount requested in each category.
23 (3) A list of grantees, including the grantee's name, county, category under
24 which the grant was funded, the amount awarded, and a narrative description
25 of the project.

26 **"SECTION 14.1.(g)** For purposes of this section, eligible activities under the category of
27 Infrastructure in subsection (a) of this section are limited to the installation of public water or
28 sewer lines and improvements to water or sewer treatment plants that have specific problems
29 such as being under moratoriums or special orders of consent. Notwithstanding the provisions
30 of subsection (e) of this section, funds allocated to the Infrastructure category in subsection (a)
31 of this section shall not be reallocated to any other category."

32 **SECTION 15.15.(b)** This section becomes effective June 30, 2013.
33

34 **ONE NORTH CAROLINA FUND**

35 **SECTION 15.16.** Of the funds appropriated in this act to the One North Carolina
36 Fund for the 2013-2015 biennium, the Department of Commerce may use up to two hundred
37 fifty thousand dollars (\$250,000) in each year of the biennium to cover its expenses in
38 administering the One North Carolina Fund and other economic development incentive grant
39 programs. The Department of Commerce shall not use more than two hundred fifty thousand
40 dollars (\$250,000) for administrative costs in any one fiscal year.
41

42 **INDUSTRIAL DEVELOPMENT FUND UTILITY ACCOUNT/USE OF FUNDS**

43 **SECTION 15.17.** Notwithstanding the provisions of G.S. 143B-437.01, of the
44 funds credited to the Industrial Development Fund Utility Account (Utility Account) in the
45 2013-2015 biennium, the sum of five million dollars (\$5,000,000) for each year of the
46 biennium may be used for the operating expenses of the Department of Commerce on a
47 nonrecurring basis. The remainder of the funds in the Utility Account in each year of the
48 biennium shall be awarded by the Rural Infrastructure Authority within the Department of
49 Commerce, as established by this act, for the purposes authorized in G.S. 143B-437.01.
50

51 **MODIFY INDUSTRIAL DEVELOPMENT FUND AND UTILITY ACCOUNT**

1 SECTION 15.18.(a) G.S. 143B-437.01 reads as rewritten:

2 "§ 143B-437.01. Industrial Development Fund-Fund Utility Account.

3 (a) Creation and Purpose of Fund. – There is created in the Department of Commerce
4 ~~the Industrial Development Fund~~ a special account to be known as the Industrial Development
5 Fund Utility Account ("Utility Account") to provide funds to assist the local government units
6 of the most economically distressed counties in the State in creating ~~and retaining jobs in~~
7 ~~certain industries~~ jobs. The Department of Commerce shall adopt rules providing for the
8 administration of the program. Those rules shall include the following provisions, which shall
9 apply to each grant from the ~~fund~~ account:

10 (1) The funds shall be used for ~~(i) installation of or purchases of equipment for~~
11 ~~eligible industries, (ii) structural repairs, improvements, or renovations of~~
12 ~~existing buildings to be used for expansion of eligible industries, or~~
13 ~~(iii) construction of or improvements to new or existing water, sewer, gas,~~
14 ~~telecommunications, high-speed broadband, electrical utility distribution~~
15 ~~lines or equipment, or transportation infrastructure for existing or new or~~
16 ~~proposed industrial buildings to be used for eligible industries~~ buildings. To
17 be eligible for funding, the water, gas, telecommunications, high-speed
18 broadband, electrical utility lines or facilities, or transportation infrastructure
19 shall be located on the site of the building or, if not located on the site, shall
20 be directly related to the operation of the ~~specific eligible industrial~~ job
21 creation activity. To be eligible for funding, the sewer infrastructure shall be
22 located on the site of the building or, if not located on the site, shall be
23 directly related to the operation of the specific eligible industrial activity,
24 even if the sewer infrastructure is located in a county other than the county
25 in which the building is located.

26 (1a) The funds shall be used for projects located in economically distressed
27 counties except that the Secretary of Commerce may use up to one hundred
28 thousand dollars (\$100,000) to provide emergency economic development
29 assistance in any county that is documented to be experiencing a major
30 economic dislocation.

31 (2) The funds shall be used by the city and county governments for projects that
32 ~~will directly~~ are reasonably anticipated to result in the creation ~~or retention~~ of
33 new jobs. ~~The funds shall be expended at a maximum rate of ten thousand~~
34 ~~dollars (\$10,000) per new job created or per job retained up to a maximum~~
35 ~~of five hundred thousand dollars (\$500,000) per project. There shall be no~~
36 maximum funding amount per new job to be created or per project.

37 (3) There shall be no local match requirement if the project is located in a
38 county that has one of the 25 highest rankings under G.S. 143B-437.08 ~~or~~
39 ~~that has a population of less than 50,000 and more than nineteen percent~~
40 ~~(19%) of its population below the federal poverty level according to the most~~
41 ~~recent federal decennial census.~~ G.S. 143B-437.08.

42 (4) The Department may authorize a local government that receives funds under
43 this section to use up to two percent (2%) of the funds, if necessary, to verify
44 that the funds are used only in accordance with law and to otherwise
45 administer the grant or loan.

46 (5) No project subject to the Environmental Policy Act, Article 1 of Chapter
47 113A of the General Statutes, shall be funded unless the Secretary of
48 Commerce finds that the proposed project will not have a significant adverse
49 effect on the environment. The Secretary of Commerce shall not make this
50 finding unless the Secretary has first received a certification from the
51 Department of Environment and Natural Resources that concludes, after

- 1 consideration of avoidance and mitigation measures, that the proposed
2 project will not have a significant adverse effect on the environment.
- 3 (6) The funds shall not be used for any nonmanufacturing project that does not
4 meet the wage standard set out in ~~G.S. 105-129.4(b)~~G.S. 105-129.4(b) or for
5 any retail, entertainment, or sports projects.
- 6 (7) Priority for the use of funds shall be given to eligible industries.
- 7 (a1) Definitions. – The following definitions apply in this section:
- 8 (1) Air courier services. – ~~Defined in G.S. 105-129.81.~~The furnishing of air
9 delivery of individually addressed letters and packages for compensation, in
10 interstate commerce, except by the United States Postal Service.
- 11 (2) Repealed by Session Laws 2006-252, s. 2.4, effective January 1, 2007.
- 12 (2a) Company headquarters. – ~~Defined in G.S. 105-129.81.~~A corporate,
13 subsidiary, or regional managing office, as defined by NAICS in United
14 States industry 551114, that is responsible for strategic or organizational
15 planning and decision making for the business on an international, national,
16 or multistate regional basis.
- 17 (3) Repealed by Session Laws 2006-252, s. 2.4, effective January 1, 2007.
- 18 (4) Economically distressed county. – A county that ~~has one of the 65 highest~~
19 ~~rankings~~is defined as a development tier one or two area under
20 G.S. 143B-437.08 after the adjustments of that section are applied.
- 21 (5) Eligible industry. – A company headquarters or a person engaged in the
22 business of air courier services, information technology and services,
23 manufacturing, or warehousing and wholesale trade.
- 24 (6) Information technology and services. – ~~Defined in G.S. 105-129.81.~~An
25 industry in one of the following, as defined by NAICS:
- 26 a. Data processing industry group 518.
- 27 b. Software publishers industry group 5112.
- 28 c. Computer systems design and related services industry group 5415.
- 29 d. An Internet activity included in industry group 519130.
- 30 (7) Major economic dislocation. – The actual or imminent loss of 500 or more
31 manufacturing jobs in the county or of a number of manufacturing jobs equal
32 to at least ten percent (10%) of the existing manufacturing workforce in the
33 county.
- 34 (8) Manufacturing. – ~~Defined in G.S. 105-129.81.~~An industry in manufacturing
35 sectors 31 through 33, as defined by NAICS, but not including quick
36 printing or retail bakeries.
- 37 (9) Reserved.
- 38 (10) Warehousing. – ~~Defined in G.S. 105-129.81.~~An industry in warehousing and
39 storage subsector 493 as defined by NAICS.
- 40 (11) Wholesale trade. – ~~Defined in G.S. 105-129.81.~~An industry in wholesale
41 trade sector 42 as defined by NAICS.
- 42 (b) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.5.
- 43 (b1) ~~There is created within the Industrial Development Fund a special account to be~~
44 ~~known as the Utility Account to provide funds to assist the local government units of the~~
45 ~~counties that have one of the 65 highest rankings under G.S. 143B-437.08 after the adjustments~~
46 ~~of that section are applied in creating jobs in eligible industries. The Department of Commerce~~
47 ~~shall adopt rules providing for the administration of the program. Except as otherwise provided~~
48 ~~in this subsection, those rules shall be consistent with the rules adopted with respect to the~~
49 ~~Industrial Development Fund. The rules shall provide that the funds in the Utility Account may~~
50 ~~be used only for construction of or improvements to new or existing water, sewer, gas,~~
51 ~~telecommunications, high speed broadband, electrical utility distribution lines or equipment, or~~

1 transportation infrastructure for existing or new or proposed industrial buildings to be used for
2 eligible industrial operations. To be eligible for funding, the water, sewer, gas,
3 telecommunications, high-speed broadband, electrical utility lines or facilities, or transportation
4 infrastructure shall be located on the site of the building or, if not located on the site, shall be
5 directly related to the operation of the specific industrial activity. There shall be no maximum
6 funding amount per new job to be created or per project.

7 (c), (c1) Repealed by Session Laws 2012-142, s. 13.4(c), effective July 1, 2012.

8 (d) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.5."

9 **SECTION 15.18.(b)** G.S. 105-129.81 reads as rewritten:

10 **"§ 105-129.81. Definitions.**

11 The following definitions apply in this Article:

12 ...

13 (2) Air courier services. – ~~The furnishing of air delivery of individually~~
14 ~~addressed letters and packages for compensation, in interstate commerce,~~
15 ~~except by the United States Postal Service.~~Defined in G.S. 143B-437.01.

16 ...

17 (5) Company headquarters. – ~~A corporate, subsidiary, or regional managing~~
18 ~~office, as defined by NAICS in United States industry 551114, that is~~
19 ~~responsible for strategic or organizational planning and decision making for~~
20 ~~the business on an international, national, or multistate regional~~
21 ~~basis.~~Defined in G.S. 143B-437.01.

22 ...

23 (13) Information technology and services. – Defined in G.S. 143B-437.01.~~An~~
24 ~~industry in one of the following, as defined by NAICS:~~

25 a. ~~Data processing industry group 518.~~

26 b. ~~Software publishers industry group 5112.~~

27 e. ~~Computer systems design and related services industry group 5415.~~

28 d. ~~An Internet activity included in industry group 519130.~~

29 ...

30 (15) Manufacturing. – ~~An industry in manufacturing sectors 31 through 33, as~~
31 ~~defined by NAICS, but not including quick printing or retail~~
32 ~~bakeries.~~Defined in G.S. 143B-437.01.

33 ...

34 (25) Warehousing. – ~~An industry in warehousing and storage subsector 493 as~~
35 ~~defined by NAICS.~~Defined in G.S. 143B-437.01.

36 (26) Wholesale trade. – ~~An industry in wholesale trade sector 42 as defined by~~
37 ~~NAICS.~~Defined in G.S. 143B-437.01."

38 **SECTION 15.18.(c)** G.S. 143B-437.012(d) reads as rewritten:

39 "(d) Eligibility. – A business is eligible for consideration for a grant under this section if
40 it satisfies the conditions of either subdivision (1) or (2) of this subsection and satisfies the
41 conditions of both subdivisions (3) and (4) of this subsection:

42 ...

43 (2) The business is a large manufacturing employer. A business is a large
44 manufacturing employer if the business meets the following requirements:

45 a. The business is in manufacturing, as defined in
46 ~~G.S. 105-129.81,~~G.S. 143B-437.01, and is converting its
47 manufacturing process to change the product it manufactures.

48 b. The Department certifies that the business has invested or intends to
49 invest at least sixty-five million dollars (\$65,000,000) of private
50 funds in improvements to real property and additions to tangible

1 personal property in the project within a three-year period beginning
2 with the time the investment commences.

- 3 c. The business employs at least 320 full-time employees at the project
4 that is the subject of the grant at the time the application is made, and
5 the business agrees to maintain at least 320 full-time employees at
6 the project for the full term of the grant.

7"

8 **SECTION 15.18.(d)** G.S. 143B-435.1(d) reads as rewritten:

9 "(d) Report. – By April 1 and October 1 of each year, the Department of Commerce shall
10 report to the Revenue Laws Study Committee, the Joint Legislative Commission on
11 Governmental Operations, the Senate Appropriations Committee on Natural and Economic
12 Resources, the House of Representatives Appropriations Subcommittee on Natural and
13 Economic Resources, and the Fiscal Research Division of the ~~General Assembly~~Legislative
14 Services Commission on (i) all clawbacks that have been triggered under the One North
15 Carolina Fund established pursuant to G.S. 143B-437.71, the Job Development Investment
16 Grant Program established pursuant to G.S. 143B-437.52, Job Maintenance and Capital
17 Development Fund established pursuant to G.S. 143B-437.012, the ~~Industrial Development~~
18 ~~Fund and~~ Utility Account established pursuant to G.S. 143B-437.01, and the Site Infrastructure
19 Fund established pursuant to G.S. 143B-437.02 and (ii) its progress on obtaining repayments.
20 The report must include the name of each business, the event that triggered the clawback, and
21 the amount forfeited or to be repaid."

22 **SECTION 15.18.(e)** G.S. 143B-437.07(c) reads as rewritten:

23 "(c) Economic Development Incentive. – An economic development incentive includes
24 any grant from the following programs: Job Development Investment Grant Program; the Job
25 Maintenance and Capital Development Fund; One North Carolina Fund; and the ~~Industrial~~
26 ~~Development Fund, including the~~ Utility Account. The State also incents economic
27 development through the use of tax expenditures in the form of tax credits and refunds. The
28 Department of Revenue must report annually on these statutory economic development
29 incentives, as required under G.S. 105-256."

30 **SECTION 15.18.(f)** G.S. 143B-437.55(c) reads as rewritten:

31 "(c) Annual Reports. – The Committee shall publish a report on the Job Development
32 Investment Grant Program on or before April 30 of each year. The Committee shall submit the
33 report electronically to the House of Representatives Finance Committee, the Senate Finance
34 Committee, the House of Representatives Appropriations Subcommittee on Natural and
35 Economic Resources, the Senate Appropriations Committee on Natural and Economic
36 Resources, and the Fiscal Research Division. The report shall include the following:

37 ...

- 38 (13) The total amount transferred to the Utility Account ~~of the Industrial~~
39 ~~Development Fund~~ under this Part during the preceding year."

40 **SECTION 15.18.(g)** G.S. 143B-437.61 reads as rewritten:

41 "**§ 143B-437.61. Transfer to Industrial Development Fund.** Fund Utility Account.

42 At the time the Department of Commerce remits a check to a business under
43 G.S. 143B-437.60, the Department of Commerce shall transfer to the Utility Account ~~of the~~
44 ~~Industrial Development Fund~~ an amount equal to the amount certified by the Committee as the
45 difference between the amount of the grant and the amount of the grant for which the business
46 would be eligible without regard to G.S. 143B-437.56(d)."

47 **SECTION 15.18.(h)** The Department of Commerce, in conjunction with the Office
48 of the State Controller, shall close the Industrial Development Fund and the Utility Account
49 and shall transfer the remaining fund balances of each to the Industrial Development Fund
50 Utility Account.

1 **SECTION 15.18.(i)** This section becomes effective July 1, 2013, and applies to
2 projects for which funds are initially provided on or after that date.

3
4 **JOB DEVELOPMENT INVESTMENT GRANT PROGRAM MODIFICATIONS**

5 **SECTION 15.19.(a)** G.S. 143B-437.52 reads as rewritten:

6 "**§ 143B-437.52. Job Development Investment Grant Program.**

7 ...

8 (b) Priority. – In selecting between applicants, a project that is located in an
9 Eco-Industrial Park certified under G.S. 143B-437.08 has priority over a comparable project
10 that is not located in a certified Eco-Industrial Park.

11 (c) Awards. – The maximum amount of total annual liability for grants awarded in any
12 single calendar year under this Part, including amounts transferred to the Utility Account
13 pursuant to G.S. 143B-437.61, is fifteen million dollars (\$15,000,000). No agreement may be
14 entered into that, when considered together with other existing agreements governing grants
15 awarded during a single calendar year, could cause the State's potential total annual liability for
16 grants awarded in a single calendar year to exceed this amount. The Department shall make
17 every effort to ensure that the average percentage of withholdings of eligible positions for
18 grants awarded under this Part does not exceed the average of the range provided in
19 G.S. 143B-437.56(a).

20 "

21 **SECTION 15.19.(a1)** Notwithstanding G.S. 143B-437.52(c), for the 2013-2015
22 fiscal biennium, the maximum total liability for grants awarded, including amounts transferred
23 to the Utility Account pursuant to G.S. 143B-437.61, is twenty-two million five hundred
24 thousand dollars (\$22,500,000) and, for the period from July 1, 2015, to December 31, 2015,
25 the maximum total liability for grants awarded, including amounts transferred to the Utility
26 Account pursuant to G.S. 143B-437.61, is seven million five hundred thousand dollars
27 (\$7,500,000). No agreement may be entered into that, when considered together with other
28 existing agreements governing grants awarded during an applicable time period provided in this
29 subsection, could cause the State's potential total annual liability for grants awarded in that time
30 period to exceed the designated maximum amount.

31 **SECTION 15.19.(b)** G.S. 143B-437.55(b) reads as rewritten:

32 "(b) Application Fee. – When filing an application under this section, the business must
33 pay the Committee a fee of five thousand dollars (\$5,000). The fee is due at the time the
34 application is filed. The Secretary of Commerce, the Secretary of Revenue, and the Director of
35 the Office of State Budget and Management shall determine the allocation of the fee imposed
36 by this section among their agencies. The proceeds of the fee are receipts of the agency to
37 which they are credited. Within 30 days of receipt of an application under this section but prior
38 to any award being made, the Department of Commerce shall notify each governing body of an
39 area where a submitted application proposes locating a project of the information listed in this
40 subsection, provided that the governing body agrees, in writing, to any confidentiality
41 requirements imposed by the Department under G.S. 132-6(d). The information required by
42 this subsection includes all of the following:

- 43 (1) The estimated amount of the grant anticipated to be awarded to the applicant
44 for the project.
45 (2) Any economic impact data submitted with the application or prepared by the
46 Department.
47 (3) Any economic impact estimated by the Department to result from the
48 project."

49 **SECTION 15.19.(c)** This section becomes effective July 1, 2013, and applies to
50 applications and awards made on or after that date.

1 **JOB DEVELOPMENT INVESTMENT GRANT PROGRAM APPLICATION FEE**
2 **INCREASE**

3 **SECTION 15.20.(a)** G.S. 143B-437.55(b) reads as rewritten:

4 "(b) Application Fee. – When filing an application under this section, the business must
5 pay the Committee a fee of ~~five thousand dollars (\$5,000)~~ ten thousand dollars (\$10,000). The
6 fee is due at the time the application is filed. The Secretary of Commerce, the Secretary of
7 Revenue, and the Director of the Office of State Budget and Management shall determine the
8 allocation of the fee imposed by this section among their agencies. The proceeds of the fee are
9 receipts of the agency to which they are credited."

10 **SECTION 15.20.(b)** This section becomes effective July 1, 2013, and applies to
11 applications filed on or after that date.

12
13 **JOB DEVELOPMENT INVESTMENT GRANT PROGRAM REPORTING FEE**
14 **INCREASE**

15 **SECTION 15.21.(a)** G.S. 143B-437.58(a) reads as rewritten:

16 "(a) No later than March 1 of each year, for the preceding grant year, every business that
17 is awarded a grant under this Part shall submit to the Committee an annual payroll report
18 showing withholdings as a condition of its continuation in the grant program and identifying
19 eligible positions that have been created during the base period that remain filled at the end of
20 each year of the grant. Annual reports submitted to the Committee shall include social security
21 numbers of individual employees identified in the reports. Upon request of the Committee, the
22 business shall also submit a copy of its State and federal tax returns. Payroll and tax
23 information, including social security numbers of individual employees and State and federal
24 tax returns, submitted under this subsection is tax information subject to G.S. 105-259.
25 Aggregated payroll or withholding tax information submitted or derived under this subsection
26 is not tax information subject to G.S. 105-259. When making a submission under this section,
27 the business must pay the Committee a fee of ~~one thousand five hundred dollars (\$1,500)~~ the
28 greater of two thousand five hundred dollars (\$2,500) or three one-hundredths of one percent
29 (.03%) of an amount equal to the grant less the maximum amount to be transferred pursuant to
30 G.S. 143B-437.61. The fee is due at the time the submission is made. The Secretary of
31 Commerce, the Secretary of Revenue, and the Director of the Office of State Budget and
32 Management shall determine the allocation of the fee imposed by this section among their
33 agencies. The proceeds of the fee are receipts of the agency to which they are credited."

34 **SECTION 15.21.(b)** This section becomes effective July 1, 2013, and applies to
35 fees submitted for awards granted on or after that date.

36
37 **TRANSFER STATE ENERGY OFFICE FROM COMMERCE TO DENR**

38
39 **GENERAL**

40 **SECTION 15.22.(a)** The State Energy Office is hereby transferred from the
41 Department of Commerce to the Department of Environment and Natural Resources. This
42 transfer shall have all of the elements of a Type I transfer, as defined in G.S. 143A-6.

43
44 **ENERGY LOAN FUND**

45 **SECTION 15.22.(b)** Part 2C of Article 10 of Chapter 143B of the General
46 Statutes, G.S. 143B-437.14 through G.S. 143B-437.16, is recodified as Part 32 of Article 7 of
47 Chapter 143B of the General Statutes, G.S. 143B-344.42 through G.S. 143B-344.44.

48 **SECTION 15.22.(c)** G.S. 143B-437.16, recodified as G.S. 143B-344.44 in
49 subsection (b) of this section, reads as rewritten:

50 "**§ 143B-344.44. Lead agency; powers and duties.**

1 (a) For the purposes of this Part, the Department of ~~Commerce~~Environment and
2 Natural Resources, State Energy Office, is designated as the lead State agency in matters
3 pertaining to energy efficiency.

4"

6 GUARANTEED ENERGY SAVINGS CONTRACTS

7 SECTION 15.22.(d) G.S. 143-64.17F reads as rewritten:

8 "**§ 143-64.17F. State agencies to use contracts when feasible; rules; recommendations.**

9 ...

10 (b) The Department of Administration, in consultation with the Department of
11 ~~Commerce~~Environment and Natural Resources, through the State Energy Office, shall adopt
12 rules for: (i) agency evaluation of guaranteed energy savings contracts; (ii) establishing time
13 periods for consideration of guaranteed energy savings contracts by the Office of State Budget
14 and Management, the Office of the State Treasurer, and the Council of State, and (iii) setting
15 measurements and verification criteria, including review, audit, and precertification. Prior to
16 adopting any rules pursuant to this section, the Department shall consult with and obtain
17 approval of those rules from the State Treasurer. The rules adopted pursuant to this subsection
18 shall not apply to energy conservation measures implemented pursuant to G.S. 143-64.17L.

19 (c) The Department of Administration, and the Department of ~~Commerce~~Environment
20 and Natural Resources through the State Energy Office, may provide to the Council of State its
21 recommendations concerning any energy savings contracts being considered."

22 SECTION 15.22.(e) G.S. 143-64.17G reads as rewritten:

23 "**§ 143-64.17G. Report on guaranteed energy savings contracts entered into by local**
24 **governmental units.**

25 A local governmental unit that enters into a guaranteed energy savings contract must report
26 the contract and the terms of the contract to the Local Government Commission and the State
27 Energy Office of the Department of ~~Administration~~Environment and Natural Resources. The
28 Commission shall compile the information and report it biennially to the Joint Commission on
29 Governmental Operations. In compiling the information, the Local Government Commission
30 shall include information on the energy savings expected to be realized from a contract and,
31 with the assistance of the Office of State Construction and the State Energy Office, shall
32 evaluate whether expected savings have in fact been realized."

33 SECTION 15.22.(f) G.S. 143-64.17H reads as rewritten:

34 "**§ 143-64.17H. Report on guaranteed energy savings contracts entered into by State**
35 **governmental units.**

36 A State governmental unit that enters into a guaranteed energy savings contract or
37 implements an energy conservation measure pursuant to G.S. 143-64.17L must report either (i)
38 the contract and the terms of the contract or (ii) the implementation of the measure to the State
39 Energy Office of the Department of ~~Commerce~~Environment and Natural Resources within 30
40 days of the date the contract is entered into or the measure is implemented. In addition, within
41 60 days after each annual anniversary date of a guaranteed energy savings contract, the State
42 governmental unit must report the status of the contract to the State Energy Office, including
43 any details required by the State Energy Office. The State Energy Office shall compile the
44 information for each fiscal year and report it to the Joint Legislative Commission on
45 Governmental Operations and to the Local Government Commission annually by December 1.
46 In compiling the information, the State Energy Office shall include information on the energy
47 savings expected to be realized from a contract or implementation and shall evaluate whether
48 expected savings have in fact been realized."

50 ENERGY ASSISTANCE FOR LOW-INCOME PERSONS

1 **SECTION 15.22.(g)** The programs administered under the North Carolina Energy
 2 Assistance Act for Low-Income Persons, being the Weatherization Assistance Program for
 3 Low-Income Families and the Heating/Air Repair and Replacement Program, and any other
 4 energy-related assistance program for the benefit of low-income persons in existing housing,
 5 are transferred from the Department of Commerce to the State Energy Office in the Department
 6 of Environment and Natural Resources. The transfer under this subsection shall have all of the
 7 elements of a Type I transfer, as defined in G.S. 143A-6.

8 **SECTION 15.22.(h)** Part 9 of Article 2 of Chapter 108A of the General Statutes,
 9 G.S. 108A-70.30, is recodified as Part 33 of Article 7 of Chapter 143B of the General Statutes,
 10 G.S. 143B-344.46.

11 **SECTION 15.22.(i)** G.S. 108A-70.30, recodified as G.S. 143B-344.46 in
 12 subsection (h) of this section, reads as rewritten:

13 **"§ 143B-344.46. Weatherization Assistance Program and Heating/Air Repair and**
 14 **Replacement Program.**

15 The State Energy Office within the Department may administer the Weatherization
 16 Assistance Program for Low-Income Families and the Heating/Air Repair and Replacement
 17 Program functions. Nothing in this Part shall be construed as obligating the General Assembly
 18 to appropriate funds for the Program or as entitling any person to services under the Program."

19 **SECTION 15.22.(j)** Part 21 of Article 10 of Chapter 143B of the General Statutes,
 20 G.S. 143B-472.121 through 143B-472.123, is recodified as Part 34 of Article 7 of Chapter
 21 143B of the General Statutes, G.S. 143B-344.48 through G.S. 143B-344.50.

22 **SECTION 15.22.(k)** G.S. 143B-472.122, recodified as G.S. 143B-344.49 in
 23 subsection (j) of this section, and G.S. 143B-472.123, recodified as G.S. 143B-344.50 in
 24 subsection (j) of this section, read as rewritten:

25 **"§ 143B-344.49. Definitions.**

26 The following definitions apply to this Part:

27 ...

28 (2) Department. – The Department of ~~Commerce~~Environment and Natural
 29 Resources.

30 (3) Secretary. – The Secretary of ~~Commerce~~the Department of Environment
 31 and Natural Resources.

32

33 **"§ 143B-344.50. ~~The Office of Economic Opportunity~~State Energy Office designated**
 34 **agency; powers and duties.**

35 (a) ~~The Office of Economic Opportunity of the Department~~State Energy Office in the
 36 Department of Environment and Natural Resources shall administer the Weatherization
 37 Assistance Program for Low-Income Families established by 42 U.S.C. § 6861, et seq., and 42
 38 U.S.C. § 7101, et seq.; the Heating/Air Repair and Replacement Program established by the
 39 Secretary under ~~G.S. 108A-70.30; G.S. 143B-344.46;~~ and any other energy-related assistance
 40 program for the benefit of low-income persons in existing housing. ~~The Office of Economic~~
 41 OpportunityState Energy Office shall exercise the following powers and duties:

42 ...

43 (8) Create a Policy Advisory Council within the ~~Office of Economic~~
 44 OpportunityState Energy Office that shall advise the ~~Office of Economic~~
 45 OpportunityState Energy Office with respect to the development and
 46 implementation of a Weatherization Program for Low-Income Families, the
 47 Heating/Air Repair and Replacement Program, and any other energy-related
 48 assistance program for the benefit of low-income persons in existing
 49 housing.

50 "

ENERGY POLICY COUNCIL

SECTION 15.22.(l) G.S. 113B-2 reads as rewritten:

"§ 113B-2. Creation of Energy Policy Council; purpose of Council.

(a) There is hereby created a council to advise and make recommendations on energy policy to the Governor and the General Assembly to be known as the Energy Policy Council which shall be located within the Department of ~~Commerce~~Environment and Natural Resources.

(b) Except as otherwise provided in this Chapter, the powers, duties and functions of the Energy Policy Council shall be as prescribed by the Secretary of ~~Commerce~~the Department of Environment and Natural Resources.

(c) The Energy Policy Council shall serve as the central energy policy planning body of the State and shall communicate and cooperate with federal, State, regional and local bodies and agencies to the end of effecting a coordinated energy policy."

SECTION 15.22.(m) G.S. 113B-11 reads as rewritten:

"§ 113B-11. Powers and authority.

...

(c) The Council shall have authority to apply for and utilize grants, contributions and appropriations in order to carry out its duties as defined in Articles 1 and 2 of this Chapter, provided, however, that all such applications and requests are made through and administered by the Department of ~~Commerce~~Environment and Natural Resources.

...

(e) The Department of ~~Commerce~~Environment and Natural Resources shall provide the staffing capability to the Energy Policy Council so as to fully and effectively develop recommendations for a comprehensive State energy policy as contained in the provisions of this Article. The Utilities Commission is hereby authorized to make its staff available to the Council to assist in the development of a State energy policy."

PURCHASES AND CONTRACTS

SECTION 15.22.(n) G.S. 143-58.4 reads as rewritten:

"§ 143-58.4. Energy credit banking and selling program.

(a) The following definitions apply in this section:

...

(4) Department. – The Department of ~~Commerce~~The Department of Environment and Natural Resources.

...

(c) Adopt Rules. – The Secretary of ~~Commerce~~Environment and Natural Resources shall adopt rules as necessary to implement this section."

ENERGY POLICY AND LIFE-CYCLE COST ANALYSIS

SECTION 15.22.(o) G.S. 143-64.11 reads as rewritten:

"§ 143-64.11. Definitions.

For purposes of this Article:

...

(2a) "Energy Office" means the State Energy Office of the Department of ~~Commerce~~Environment and Natural Resources.

...."

SECTION 15.22.(p) G.S. 143-64.12 reads as rewritten:

"§ 143-64.12. Authority and duties of the Department; State agencies and State institutions of higher learning.

(a) The Department of ~~Commerce~~Environment and Natural Resources through the State Energy Office shall develop a comprehensive program to manage energy, water, and

1 other utility use for State agencies and State institutions of higher learning and shall update this
2 program annually. Each State agency and State institution of higher learning shall develop and
3 implement a management plan that is consistent with the State's comprehensive program under
4 this subsection to manage energy, water, and other utility use, and that addresses any findings
5 or recommendations resulting from the energy audit required by subsection (b1) of this section.
6 The energy consumption per gross square foot for all State buildings in total shall be reduced
7 by twenty percent (20%) by 2010 and thirty percent (30%) by 2015 based on energy
8 consumption for the 2002-2003 fiscal year. Each State agency and State institution of higher
9 learning shall update its management plan annually and include strategies for supporting the
10 energy consumption reduction requirements under this subsection. Each community college
11 shall submit to the State Energy Office an annual written report of utility consumption and
12 costs. Management plans submitted annually by State institutions of higher learning shall
13 include all of the following:

14"

15 **SECTION 15.22.(q)** The Revisor of Statutes shall make any other conforming
16 statutory changes that are necessary to reflect the transfer under subsection (a) of this section.
17

18 **STAFF FOR RURAL ECONOMIC DEVELOPMENT DIVISION AND WATER** 19 **INFRASTRUCTURE DIVISION**

20 **SECTION 15.23.** The Departments of Commerce and Environment and Natural
21 Resources shall work together to determine a way in which to equitably distribute the
22 employees within the Department of Commerce, Division of Community Assistance,
23 responsible for the CDBG program between the Rural Economic Development Division, as
24 established by this act, and the Water Infrastructure Division, as established by this act.
25

26 **OREGON INLET LAND ACQUISITION TASK FORCE**

27 **SECTION 15.24.(a)** There is hereby created the Oregon Inlet Land Acquisition
28 Task Force for the purpose of determining, reviewing, and considering the State's options for
29 acquiring the federal government's right, title, and interest in Oregon Inlet and the real property
30 adjacent thereto, including submerged lands. A more particular description of the property to be
31 acquired is provided in subsection (h) of this section. Acquiring the property described in
32 subsection (h) of this section will allow the State to preserve Oregon Inlet and to develop
33 long-term management solutions for preserving and enhancing the navigability of Oregon Inlet,
34 which is both a critical transportation corridor and a critical source of commerce for the State's
35 Outer Banks. The Task Force shall have duties including the following:

- 36 (1) Consulting with the State Property Office and agencies and departments of
37 the federal government, including the United States Department of Fish and
38 Wildlife, United States National Park Service, Congressional Budget Office,
39 and members of the North Carolina congressional delegation to establish the
40 monetary value of Oregon Inlet and the real property adjacent thereto.
- 41 (2) Determining whether and to what degree the federal government will sell to
42 the State Oregon Inlet and the real property adjacent thereto or exchange the
43 property for State-owned real property. If the federal government expresses
44 a willingness to exchange the property for State-owned property, the Task
45 Force shall determine the identity of the State-owned property and the
46 monetary value of the property.
- 47 (3) Exploring any and all options for acquiring Oregon Inlet and the real
48 property adjacent thereto, including condemnation of the coastal lands
49 conveyed to the federal government in a deed dated August 7, 1958, and
50 recorded September 3, 1958, in the Dare County Registry of Deeds.

(4) Considering any other issues deemed relevant by the Task Force that are related to the acquisition of Oregon Inlet and the real property adjacent thereto.

SECTION 15.24.(b) The Task Force shall consist of the following 13 members:

- (1) The Governor or the Governor's designee, who shall be chair.
- (2) The Commissioner of Agriculture and Consumer Services or the Commissioner's designee.
- (3) The Secretary of the Department of Administration or the Secretary's designee.
- (4) The Secretary of the Department of Commerce or the Secretary's designee.
- (5) The Secretary of the Department of Environment and Natural Resources or the Secretary's designee.
- (6) The Secretary of the Department of Public Safety or the Secretary's designee.
- (7) The Secretary of the Department of Transportation or the Secretary's designee.
- (8) The Attorney General or the Attorney General's designee.
- (9) Two members of the Senate appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate.
- (10) Two members of the House of Representatives appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives.
- (11) The chair of the Dare County Board of Commissioners or the chair's designee.

SECTION 15.24.(c) The terms of the members appointed under subsection (b) of this section shall commence on July 1, 2013. A vacancy on the Task Force shall be filled by the Governor, except that a vacancy in an appointment by the General Assembly shall be filled by the original appointing authority.

SECTION 15.24.(d) The Task Force shall meet at the call of the Governor. All members of the Task Force are voting members. A majority of the members of the Task Force constitutes a quorum.

SECTION 15.24.(e) Members of the Task Force shall receive no compensation for their service, but may receive per diem, travel, and subsistence allowances in accordance with G.S. 120-3.1, 138-5, and 138-6, as appropriate. No State funds shall be appropriated to the Task Force or to any State agency or department for the Task Force.

SECTION 15.24.(f) The Department of Commerce shall provide staff to the Task Force. All State agencies and departments shall provide assistance to the Task Force upon request.

SECTION 15.24.(g) By May 1, 2014, the Task Force shall submit a report detailing its findings and recommendations to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the General Assembly. The Task Force shall terminate upon the filing of the report required by this subsection.

SECTION 15.24.(h) The federally owned property to be acquired by the State shall include all of the federal government's right, title, and interest in the real property, including submerged lands, located within the area described by connecting the following latitude and longitude points:

<u>Latitude:</u>	<u>Longitude:</u>
35.78867341400	-75.53323291600
35.78099563900	-75.52953510600
35.78178528500	-75.52513394400
35.78141354400	-75.52334019100

1	35.77887390700	-75.52025162500
2	35.77857436500	-75.51969654900
3	35.77781290800	-75.51900873900
4	35.77734893400	-75.51884305500
5	35.77110009400	-75.51641608800
6	35.76633568000	-75.51356516200
7	35.76116258500	-75.51036495800
8	35.75751496100	-75.50801176500
9	35.75608651600	-75.51228522200
10	35.75777480300	-75.51379949200
11	35.75860596900	-75.51451482100
12	35.75960484700	-75.51540263600
13	35.76100041400	-75.51665469900
14	35.76117351400	-75.51681019600
15	35.76212525300	-75.51767780700
16	35.76287562800	-75.51836186100
17	35.76316770200	-75.51862812200
18	35.76381492400	-75.51921814800
19	35.76415098700	-75.51955669900
20	35.76445468400	-75.51995078300
21	35.76485826900	-75.52059025200
22	35.76505577400	-75.52094720300
23	35.76528160600	-75.52142243500
24	35.76548548000	-75.52198988800
25	35.76556574300	-75.52341266800
26	35.76566877400	-75.52523906000
27	35.76454632200	-75.52902085700
28	35.76357138700	-75.53246190700
29	35.76337226200	-75.53339199600
30	35.76333441200	-75.53364756500
31	35.76332909000	-75.53390886900
32	35.76335819500	-75.53458675100
33	35.76341367100	-75.53498008200
34	35.76354478800	-75.53535025300
35	35.76361737400	-75.53547511500
36	35.76383009500	-75.53584104000
37	35.76425804000	-75.53655388200
38	35.76471137600	-75.53740653000
39	35.76502225800	-75.53875413900
40	35.76521060100	-75.54081681300
41	35.76523404100	-75.54194712400
42	35.76525043500	-75.54273769600
43	35.76526768700	-75.54353888100
44	35.76532715800	-75.54394387700
45	35.76541340600	-75.54428520100
46	35.76550080400	-75.54463107400
47	35.76577010000	-75.54534161500
48	35.76597248500	-75.54579049600
49	35.76632062300	-75.54620555000
50	35.76655164400	-75.54635947100
51	35.76725670200	-75.54660003000

1	35.76764041200	-75.54670534600
2	35.76795847900	-75.54670661900
3	35.77077784300	-75.54629895400
4	35.77115918300	-75.54624921300
5	35.77148150500	-75.54619720600
6	35.77234520600	-75.54605784500
7	35.77377517700	-75.54582711000
8	35.77469339200	-75.54566942900
9	35.77590248800	-75.54531166000
10	35.77673545200	-75.54571296000
11	35.77711645600	-75.54582301200
12	35.77742981800	-75.54581293600
13	35.77771608200	-75.54572387500
14	35.77791539100	-75.54559449800
15	35.77810904100	-75.54546879500
16	35.77904847600	-75.54478184500
17	35.77912430900	-75.54486803600
18	35.77981427400	-75.54534862400
19	35.78042966800	-75.54567367500
20	35.78135818100	-75.54600030500
21	35.78175635200	-75.54606539500
22	35.78221194600	-75.54612839200
23	35.78279713100	-75.54636296300
24	35.78378882800	-75.54668308800
25	35.78766932400	-75.54709605000
26	35.79082109200	-75.54691243300
27	35.79820587700	-75.54665906000
28	35.79859286600	-75.54249624600
29	35.80046065100	-75.53877586500
30	35.79408521600	-75.53252823100
31	35.79248815800	-75.53183764800
32	35.79151104100	-75.53197071600
33	35.78867341400	-75.53323291600
34	35.76886839300	-75.52536743000
35	35.76724598100	-75.52438052100
36	35.76805629700	-75.52240411900
37	35.76966632600	-75.52339266000
38	35.76886839300	-75.52536743000.

39
40 **COMMERCE NONPROFITS/REPORTING REQUIREMENTS AND USE OF STATE**
41 **FUNDS**

42 **SECTION 15.25.(a)** High Point Furniture Market Authority and RTI International
43 shall do the following:

- 44 (1) By September 1 of each year, and more frequently as requested, report to the
45 Joint Legislative Commission on Governmental Operations and the Fiscal
46 Research Division on prior State fiscal year program activities, objectives,
47 and accomplishments and prior State fiscal year itemized expenditures and
48 fund sources.
- 49 (2) Provide to the Fiscal Research Division a copy of the entity's annual audited
50 financial statement within 30 days of issuance of the statement.

1 **SECTION 15.25.(b)** No more than one hundred twenty thousand dollars
2 (\$120,000) in State funds shall be used for the annual salary of any one employee of an entity
3 listed in subsection (a) of this section. For purposes of this section, the term "State funds"
4 means funds appropriated or allocated to an entity and interest earned on those funds.

5 **SECTION 15.25.(c)** No State funds shall be used by an entity listed in subsection
6 (a) of this section (i) to hire or facilitate the hiring of a lobbyist or any person performing the
7 duties or activities of a lobbyist, without regard to the person's title or (ii) to facilitate any
8 lobbying efforts.

9 **SECTION 15.25.(d)** Funds appropriated in this act to RTI International shall be
10 used to support new research that is conducted in the State of North Carolina. Funds
11 appropriated to RTI International for the 2013-2014 fiscal year that are unexpended and
12 unencumbered as of June 30, 2014, shall revert to the General Fund on June 30, 2014.

13 14 **RURAL CENTER/REPEAL STATUTORY REFERENCES**

15 **SECTION 15.26.(a)** G.S. 106-744 reads as rewritten:

16 **"§ 106-744. Purchase of agricultural conservation easements; establishment of North**
17 **Carolina Agricultural Development and Farmland Preservation Trust Fund**
18 **and Advisory Committee.**

19 ...
20 (g) There is established the Agricultural Development and Farmland Preservation Trust
21 Fund Advisory Committee. The Advisory Committee shall be administratively located within
22 the Department of Agriculture and Consumer Services and shall advise the Commissioner on
23 the prioritization and allocation of funds, the development of criteria for awarding funds,
24 program planning, and other areas where monies from the Trust Fund can be used to promote
25 the growth and development of family farms in North Carolina. The Advisory Committee shall
26 be composed of 19 members as follows:

27 ...
28 (7) ~~The Executive Director of the North Carolina Rural Economic Development~~
29 ~~Center, Inc., or the Executive Director's designee.~~ The Assistant Secretary for
30 the Rural Economic Development Division within the Department of
31 Commerce or the Assistant Secretary's designee.

32 "

33 **SECTION 15.26.(b)** The Revisor of Statutes may, where necessitated by this
34 section, correct any reference in the General Statutes and make any other conforming changes.

35 36 **RURAL CENTER/EXPENSES FOR ADMINISTERING STATE-FUNDED GRANT** 37 **PROGRAMS**

38 **SECTION 15.27.(a)** The North Carolina Rural Economic Development Center,
39 Inc. (Rural Center), may repurpose funds previously appropriated by the General Assembly for
40 grant and loan programs to administer State-funded programs. Up to three million dollars
41 (\$3,000,000) in the 2013-2014 fiscal year and up to three million dollars (\$3,000,000) in the
42 2014-2015 fiscal year of any unencumbered funds appropriated to the Rural Center in prior
43 fiscal years may be repurposed to cover administrative expenses associated with State-funded
44 programs. However, prior to repurposing funds to cover administrative expenses as provided in
45 this subsection, the Rural Center shall first expend all State funds appropriated in prior fiscal
46 years for administrative expenses.

47 **SECTION 15.27.(b)** No more than one hundred twenty thousand dollars
48 (\$120,000) in State funds shall be used for the annual salary of any one employee of the Rural
49 Center. For purposes of this section, the term "State funds" means funds appropriated or
50 allocated to an entity and interest earned on those funds.

1 **SECTION 15.27.(c)** No State funds shall be appropriated or allocated to the Rural
2 Center for the 2013-2015 biennium, including grants, loans, or any other awards made by a
3 State agency, department, or other entity. No nonprofit to whom State funds were appropriated
4 or allocated in prior fiscal years or the 2013-2015 biennium shall grant, loan, or give any of
5 those State funds to the Rural Center.

6
7 **REGIONAL ECONOMIC DEVELOPMENT COMMISSIONS/STATUTES CREATING**
8 **COMMISSIONS REPEALED**

9 **SECTION 15.28.(a)** Articles 2 and 4 of Chapter 158 of the General Statutes are
10 repealed.

11 **SECTION 15.28.(b)** Upon the dissolution of North Carolina's Eastern Region, the
12 North Carolina's Eastern Region Development Commission, the governing body of North
13 Carolina's Eastern Region, shall liquidate the assets of the Region to the extent possible and
14 distribute all Region assets to the counties of the Region in proportion to the amount of the
15 vehicle registration tax levied by the Commission and collected in each county. The assets of
16 the Region that exceed the amount of the vehicle registration tax collected by the counties and
17 are attributable to an appropriation made to the Region by the General Assembly shall revert to
18 the General Fund and may not be distributed to the counties. A county may use funds
19 distributed to it pursuant to this subsection only for economic development projects and
20 infrastructure construction projects. In calculating the amount to be refunded to each county,
21 the Region shall first allocate amounts loaned and not yet repaid as follows:

- 22 (1) Amounts loaned for a project in a county will be allocated to that county to
23 the extent of its beneficial ownership of the principal of the interest-bearing
24 trust account in which the proceeds of the vehicle registration tax levied by
25 the Commission were placed, and the county will become the owner of the
26 right to repayment of the amount loaned to the extent of its beneficial
27 ownership of the principal of the trust account.
- 28 (2) Amounts not allocated pursuant to subdivision (1) of this subsection shall be
29 allocated among the remaining counties in proportion to the amount of the
30 vehicle registration tax collected in each county, and the remaining counties
31 shall become the owners of the right to repayment of the amounts loaned in
32 proportion to the amount of the vehicle registration tax collected in each
33 county.

34 Notes and other instruments representing the right to repayment shall, upon
35 dissolution of the Region, be held and collected by the State Treasurer, who shall disburse the
36 collections to the counties as provided in this subsection.

37 The Commission shall distribute those assets that it is unable to liquidate among the
38 Region counties insofar as practical on an equitable basis, as determined by the Commission.
39 Upon dissolution, the State of North Carolina shall succeed to any remaining rights,
40 obligations, and liabilities of the Region not assigned to the Region counties.

41 **SECTION 15.28.(c)** G.S. 120-123 reads as rewritten:

42 "**§ 120-123. Service by members of the General Assembly on certain boards and**
43 **commissions.**

44 No member of the General Assembly may serve on any of the following boards or
45 commissions:

- 46 ...
47 ~~(62) The North Carolina's Northeast Commission, as established by G.S. 158-8.2.~~
48 "

49 **SECTION 15.28.(d)** G.S. 143-215.42 reads as rewritten:

50 "**§ 143-215.42. Acquisition of lands.**

51 ...

1 (h) This section shall not authorize acquisition by condemnation of interests in land
2 within the boundaries of any project to be constructed by the Tennessee Valley Authority, its
3 agents or subdivision or any project licensed by the Federal Power Commission or interests in
4 land owned or held for use by a public utility, as defined in G.S. 62-3. ~~No commission created~~
5 ~~pursuant to G.S. 158-8 shall condemn or acquire any property to be used by the Tennessee~~
6 ~~Valley Authority, its agents or subdivision."~~

7 **SECTION 15.28.(e)** G.S. 143-506.10 reads as rewritten:

8 **"§ 143-506.10. Designation of growth centers; achieving balanced growth.**

9 It shall be the policy of the State of North Carolina to support the expansion of the State and
10 to designate growth areas or centers with the potential, capacity and desire for growth. The
11 Governor, with the advice of county and municipal government officials and citizens, is
12 charged with designating growth areas or centers, which shall include at least one center in
13 each North Carolina county. Designation of growth areas or centers shall be reviewed annually.
14 These designations may be used for the purpose of establishing priority consideration for State
15 and federal assistance for growth.

16 Progress toward achieving balanced growth shall be measured by the strengthening of
17 economic activity and the adequacy of public services within each of the State's multi-county
18 ~~regions and, as to the geographical area included, the Southeastern Economic Development~~
19 ~~Commission regions.~~ The Governor, with the advice of county and municipal government
20 officials and citizens, shall develop measures of progress toward achieving balanced growth."

21 **SECTION 15.28.(f)** G.S. 153A-398 reads as rewritten:

22 **"§ 153A-398. Regional planning and economic development commissions.**

23 Two or more counties, cities, or counties and cities may create a regional planning and
24 economic development commission by adopting identical concurrent resolutions to that effect.
25 Such a commission has the powers granted by this ~~Article and the powers granted by Chapter~~
26 ~~158, Article 2.~~ Article. If such a commission is created, it shall maintain separate books of
27 account for appropriations and expenditures made pursuant to this ~~Article and for~~
28 ~~appropriations and expenditures made pursuant to Chapter 158, Article 2.~~ Article."

29 **SECTION 15.28.(g)** The Revisor of Statutes may, where necessitated by this
30 section, correct any reference in the General Statutes and make any other conforming changes.

31 32 **HIGH POINT MARKET AUTHORITY/HOUSE COMMERCE ECONOMIC** 33 **DEVELOPER POSITION**

34 **SECTION 15.29.** To receive State funds, the High Point Market Authority shall
35 provide suitable work space for a Department of Commerce economic developer position.

36 37 **NC BIOTECHNOLOGY CENTER**

38 **SECTION 15.30.(a)** Of the funds appropriated in this act to the North Carolina
39 Biotechnology Center (hereinafter "Center"), the sum of eight million six hundred thousand
40 three hundred thirty-eight dollars (\$8,600,338) for each fiscal year in the 2013-2015 biennium
41 shall be allocated as follows:

- 42 (1) Job Creation: Ag Biotech Initiative, Economic and Industrial Development,
43 and related activities – \$1,852,063;
- 44 (2) Science and Commercialization: Science and Technology Development,
45 Centers of Innovation, Business and Technology Development, Education
46 and Training, and related activities – \$5,566,743; and
- 47 (3) Center Operations: Administration, Professional and Technical Assistance
48 and Oversight, Corporate Communications, Human Resource Management,
49 Financial and Grant Administration, Legal, and Accounting – \$1,181,532.

50 **SECTION 15.30.(b)** Except to provide administrative flexibility, up to ten percent
51 (10%) of each of the allocations in subsection (a) of this section may be reallocated to one or

1 more of the other allocations in subsection (a) of this section if, in the judgment of Center
2 management, the reallocation will advance the mission of the Center.

3 **SECTION 15.30.(c)** The Center shall comply with the following reporting
4 requirements:

- 5 (1) By September 1 of each year, and more frequently as requested, report to the
6 Joint Legislative Commission on Governmental Operations and the Fiscal
7 Research Division on prior State fiscal year program activities, objectives,
8 and accomplishments and prior State fiscal year itemized expenditures and
9 fund sources.
- 10 (2) Provide to the Fiscal Research Division a copy of the Center's annual audited
11 financial statement within 30 days of issuance of the statement.

12 **SECTION 15.30.(d)** No more than one hundred twenty thousand dollars
13 (\$120,000) in State funds shall be used for the annual salary of any one employee of the Center.
14 For purposes of this section, the term "State funds" means funds appropriated or allocated to an
15 entity and interest earned on those funds.

16 **SECTION 15.30.(e)** No State funds shall be used by the Center (i) to hire or
17 facilitate the hiring of a lobbyist or any person performing the duties or activities of a lobbyist,
18 without regard to the person's title or (ii) to facilitate any lobbying efforts.

19 **NC BIOTECHNOLOGY CENTER/CHALLENGE GRANT**

20 **SECTION 15.31.(a)** It is the intent of the General Assembly that the North
21 Carolina Biotechnology Center (hereinafter "Center") raise at least one million dollars
22 (\$1,000,000) in non-State funds for the 2013-2014 fiscal year and at least two million dollars
23 (\$2,000,000) in non-State funds for the 2014-2015 fiscal year. Receipts collected in prior fiscal
24 years, State funds previously appropriated to the Center, and interest earned on State funds
25 appropriated to the Center cannot be used as matching funds required by this section.

26 **SECTION 15.31.(b)** For the 2013-2014 fiscal year, the Center shall receive
27 allocations as follows:

- 28 (1) Three-fourths of the funds appropriated in this act for the 2013-2014 fiscal
29 year will be distributed to the Center in regular installments between July 1,
30 2013, and March 31, 2014.
- 31 (2) The remaining one-fourth of the funds appropriated in this act for the
32 2013-2014 fiscal year will be distributed in the fourth quarter of the fiscal
33 year after demonstrating to the Department of Commerce that it has received
34 at least the sum of one million dollars (\$1,000,000) in non-State funds to
35 match this allotment.

36 **SECTION 15.31.(c)** For the 2014-2015 fiscal year, the Center shall receive
37 allocations as follows:

- 38 (1) One-half of the funds appropriated in this act for the 2014-2015 fiscal year
39 will be distributed to the Center in regular installments between July 1, 2014,
40 and December 31, 2014.
- 41 (2) One-fourth of the funds appropriated in this act for the 2014-2015 fiscal year
42 will be distributed in the third quarter of the fiscal year after demonstrating
43 to the Department of Commerce that it has received at least the sum of one
44 million dollars (\$1,000,000) in non-State funds to match this allotment.
- 45 (3) The remaining one-fourth of the funds appropriated in this act for the
46 2014-2015 fiscal year will be distributed in the fourth quarter of the fiscal
47 year after demonstrating to the Department of Commerce that it has received
48 at least the sum of one million dollars (\$1,000,000) in non-State funds in
49 addition to the requirements provided in subdivision (2) of this subsection.

1 **NORTH CAROLINA BIOTECHNOLOGY CENTER/EXAMINE CENTER**
2 **OPERATIONS**

3 **SECTION 15.32.(a)** The Board of Directors (hereinafter "Board") of the North
4 Carolina Biotechnology Center (hereinafter "Center") shall review and examine each aspect of
5 the Center's operations to determine ways in which efficiencies and cost savings can be
6 achieved. The review required by this section shall include evaluating:

- 7 (1) The activities conducted at the Center's headquarters in Research Triangle
8 Park to determine how each and every activity is necessary to achieve the
9 goals for which State funds are appropriated. Any unnecessary or duplicative
10 activities shall be reduced or eliminated.
- 11 (2) The activities conducted at the Center's regional offices and how those
12 activities can be consolidated and performed in fewer locations.
- 13 (3) Staffing requirements at the Center's headquarters and at the regional offices
14 to determine whether some staff positions are duplicated and, if so, whether
15 those duplications can be reduced or eliminated.
- 16 (4) Whether State funds would be better used to provide additional grants and
17 loans rather than to support current staffing levels and whether reducing
18 current staffing levels to increase the amount of funds available for grants
19 and loans would provide a positive return on investment. The Center shall
20 determine the appropriate percentage of State funds that should be disbursed
21 for grants, loans, and staff to maximize the return on State funds
22 appropriated to the Center.
- 23 (5) The administration of grant and loan programs funded in any way with State
24 funds to ensure that the programs are conducted in a cost-efficient manner.
- 25 (6) Any and all cash balances on hand to determine ways in which those cash
26 balances can be used quickly to make grants and loans.
- 27 (7) The size of the Board and the overall governance of the Center to determine
28 whether changes in either or both can be made to make the Center more
29 cost-efficient and effective in providing grants or loans.

30 **SECTION 15.32.(b)** By March 1, 2014, the Center shall report the findings of the
31 review required by subsection (a) of this section to the Joint Legislative Commission on
32 Governmental Operations and the Fiscal Research Division. The report shall include the steps
33 taken by the Center to implement any changes made to the Center's operations as a result of the
34 review and shall include the Center's anticipated funding requirements from the General
35 Assembly.

36 **SECTION 15.32.(c)** Remaining allotments after March 1, 2014, shall not be
37 released to the Center if it does not conduct the review and report its findings as provided in
38 this section.

39
40 **PART XVI. DEPARTMENT OF PUBLIC SAFETY**

41
42 **SUBPART XVI-A. GENERAL PROVISIONS**

43
44 **FEDERAL GRANT REPORTING AND MATCHING FUNDS**

45 **SECTION 16A.1.(a)** The Department of Public Safety, the Department of Justice,
46 and the Judicial Department shall report by May 1 of each year to the Joint Legislative
47 Commission on Governmental Operations, the Chairs of the House of Representatives
48 Subcommittee on Justice and Public Safety, and the Chairs of the Senate Appropriations
49 Committee on Justice and Public Safety on federal grant funds received or preapproved for
50 receipt by those departments. The report shall include information on the amount of grant funds
51 received or preapproved for receipt by each department, the use of the funds, the State match

1 expended to receive the funds, and the period to be covered by each grant. If the department
2 intends to continue the program beyond the end of the grant period, the department shall report
3 on the proposed method for continuing the funding of the program at the end of the grant
4 period. Each department shall also report on any information it may have indicating that the
5 State will be requested to provide future funding for a program presently supported by a local
6 grant.

7 **SECTION 16A.1.(b)** Notwithstanding the provisions of G.S. 143C-6-9, the
8 Department of Public Safety may use up to the sum of one million two hundred thousand
9 dollars (\$1,200,000) during the 2013-2014 fiscal year and up to the sum of one million two
10 hundred thousand dollars (\$1,200,000) during the 2014-2015 fiscal year from funds available to
11 the Department to provide the State match needed in order to receive federal grant funds. Prior
12 to using funds for this purpose, the Department shall report to the Chairs of the House of
13 Representatives Subcommittee on Justice and Public Safety, the Chairs of the Senate
14 Appropriations Committee on Justice and Public Safety, and the Joint Legislative Commission
15 on Governmental Operations on the grants to be matched using these funds.

17 EXEMPT DPS FROM MOTOR FLEET MANAGEMENT

18 **SECTION 16A.2.(a)** G.S. 143-341 reads as rewritten:

19 "**§ 143-341. Powers and duties of Department.**

20 ...

21 (8) General Services:

22 ...

23 i. To establish and operate a central motor pool and such subsidiary
24 related facilities as the Secretary may deem necessary, and to that
25 end:

26 ...

27 3. To require on a schedule determined by the Department all
28 State agencies to transfer ownership, custody or control of
29 any or all passenger motor vehicles within the ownership,
30 custody or control of that agency to the Department, except
31 those motor vehicles under the ownership, custody or control
32 of ~~the Highway Patrol, the State Bureau of Investigation,~~(i)
33 the Department of Public Safety; or (ii) the constituent
34 institutions of The University of North Carolina which are
35 used primarily for law-enforcement purposes, ~~and except~~
36 ~~those motor vehicles under the ownership, custody or control~~
37 ~~of the Department of Public Safety for Butner Public Safety~~
38 ~~which are used primarily for law enforcement, fire, or~~
39 ~~emergency purposes.purposes."~~

40 **SECTION 16A.2.(b)** Unexpended funds previously transferred from the
41 Department of Public Safety to Fund Code 74100-7211 shall be reallocated to the Department
42 of Public Safety to support the Department of Public Safety Motor Fleet and are hereby
43 appropriated for that purpose.

44 **SECTION 16A.2.(c)** Of the funds appropriated to the Department of Public Safety
45 in the 2012-2013 fiscal year, and subject to the approval of the State Chief Information Officer,
46 the sum of ten million dollars (\$10,000,000) shall be reallocated for the purchase and
47 implementation of an enterprise resource planning (ERP) system that is to be part of a
48 statewide ERP initiative.

49 **SECTION 16A.2.(d)** Subsection (c) of this section becomes effective June 30,
50 2013.

USE OF CLOSED FACILITIES

SECTION 16A.3. In conjunction with the closing of prison facilities, youth detention centers, and youth development centers, the Department of Public Safety shall consult with the county or municipality in which the facility is located, with the elected State and local officials, and with State and federal agencies about the possibility of converting that facility to other use. The Department may also consult with any private for-profit or nonprofit firm about the possibility of converting the facility to other use. In developing a proposal for future use of each facility, the Department shall give priority to converting the facility to other criminal justice use. Consistent with existing law and the future needs of the Department of Public Safety, the State may provide for the transfer or the lease of any of these facilities to counties, municipalities, State agencies, federal agencies, or private firms wishing to convert them to other use. The Department of Public Safety may also consider converting some of the facilities recommended for closing from one security custody level to another, where that conversion would be cost-effective. A prison unit under lease to a county pursuant to the provisions of this section for use as a jail is exempt for the period of the lease from any of the minimum standards adopted by the Secretary of Health and Human Services pursuant to G.S. 153A-221 for the housing of adult prisoners that would subject the unit to greater standards than those required of a unit of the State prison system.

LIMITED AUTHORITY TO RECLASSIFY AND ELIMINATE CERTAIN POSITIONS

SECTION 16A.4. Notwithstanding any other provision of law, subject to the approval of the Director of the Budget, the Secretary of the Department of Public Safety may reclassify or eliminate existing administrative positions that are not specifically addressed in this act as needed for the efficient operation of the Department. The Secretary of the Department of Public Safety shall report any position reclassification undertaken pursuant to this section to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, the Chairs of the Senate Appropriations Committee on Justice and Public Safety, and to the Fiscal Research Division, within 30 days of the reclassification. The report shall include the position number, original title, original fund code, original budgeted salary, new title, new fund code, and new budgeted salary for each reclassified position.

SUBPART XVI-B. DIVISION OF LAW ENFORCEMENT**USE OF SEIZED AND FORFEITED PROPERTY TRANSFERRED TO STATE LAW ENFORCEMENT AGENCIES BY THE FEDERAL GOVERNMENT**

SECTION 16B.1.(a) Assets transferred to the Department of Justice or to the Department of Public Safety during the 2013-2015 fiscal biennium pursuant to applicable federal law shall be credited to the budgets of the respective departments and shall result in an increase of law enforcement resources for those departments. The Departments of Justice and Public Safety shall report to the Joint Legislative Commission on Governmental Operations, the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, and the Chairs of the Senate Appropriations Committee on Justice and Public Safety upon receipt of the assets and, before using the assets, shall report on the intended use of the assets and the departmental priorities on which the assets may be expended.

SECTION 16B.1.(b) The General Assembly finds that the use of assets transferred pursuant to federal law for new personnel positions, new projects, acquisition of real property, repair of buildings where the repair includes structural change, and construction of or additions to buildings may result in additional expenses for the State in future fiscal periods. Therefore, the Department of Justice and the Department of Public Safety are prohibited from using these assets for such purposes without the prior approval of the General Assembly.

1 **SECTION 16B.1.(c)** Nothing in this section prohibits North Carolina law
2 enforcement agencies from receiving funds from the United States Department of Justice, the
3 United States Department of the Treasury, and the United States Department of Health and
4 Human Services.

5
6 **TRANSFER ABC PERMIT APPLICATION INVESTIGATION FUNCTION FROM**
7 **ALE TO ABC COMMISSION**

8 **SECTION 16B.2.** G.S. 18B-902(b) reads as rewritten:

9 "(b) Investigation. – Before issuing a new permit, the ~~Commission, with the assistance of~~
10 ~~the ALE Section, Commission~~ shall investigate the applicant and the premises for which the
11 permit is requested. The Commission may request the assistance of local ABC officers or other
12 law enforcement officials in investigating applications. An applicant shall cooperate fully with
13 the investigation. The Commission may delegate the duty to conduct investigations under this
14 section to local boards.

15 The ~~Department of Justice~~Department of Public Safety may provide a criminal record
16 check to the ~~ALE Section~~Commission or to the appropriate local board for a person who has
17 applied for a permit through the Commission. The ~~ALE Section~~Commission or the appropriate
18 local board shall provide to the ~~Department of Justice, Department of Public Safety,~~ along with
19 the request, the fingerprints of the applicant, any additional information required by the
20 ~~Department of Justice, Department of Public Safety,~~ and a form signed by the applicant
21 consenting to the check of the criminal record and to the use of the fingerprints and other
22 identifying information required by the State or national repositories. The applicant's
23 fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's
24 criminal history record file, and the State Bureau of Investigation shall forward a set of the
25 fingerprints to the Federal Bureau of Investigation for a national criminal history check. The
26 ~~ALE Section and the Commission and local boards~~ shall keep all information pursuant to this
27 subsection privileged, in accordance with applicable State law and federal guidelines, and the
28 information shall be confidential and shall not be a public record under Chapter 132 of the
29 General Statutes.

30 The ~~Department of Justice~~Department of Public Safety may charge each applicant a fee for
31 conducting the checks of criminal history records authorized by this subsection."
32

33 **CREATION OF REGIONAL SBI/ALE OFFICES**

34 **SECTION 16B.3.** The Department of Public Safety shall create eight regional
35 offices in the Division of Law Enforcement at each of which shall be collocated personnel and
36 property of the Alcohol Law Enforcement Section and the State Bureau of Investigation.
37 Specifically, each regional office shall house one district of personnel and equipment for the
38 Alcohol Law Enforcement Section, and appropriate personnel and equipment for the State
39 Bureau of Investigation. These regional offices shall be operational by July 1, 2014, and on or
40 before March 1, 2014, the Department shall report to the Chairs of the House of
41 Representatives Appropriations Subcommittee on Justice and Public Safety, the Chairs of the
42 Senate Appropriations Committee on Justice and Public Safety, and the Chairs of the Joint
43 Legislative Oversight Committee on Justice and Public Safety on the following:

- 44 (1) The amount of savings the Department anticipates achieving as a result of
45 collocating personnel and property of the Alcohol Law Enforcement Section
46 and the State Bureau of Investigation at the eight regional offices.
- 47 (2) The counties that will be included in each district and the regional office that
48 will serve each district.
- 49 (3) The staffing levels anticipated at each regional office.
- 50 (4) Any statutory or regulatory changes that will be required as a prerequisite to
51 or consequence of housing personnel and property of the Alcohol Law

1 Enforcement Section and the State Bureau of Investigation within the same
2 regional offices.
3

4 **ELIMINATE BUTNER PUBLIC SAFETY AUTHORITY**

5 **SECTION 16B.4.(a)** G.S. 122C-408 is repealed and the Butner Public Safety
6 Authority hereby abolished.

7 **SECTION 16B.4.(b)** The town of Butner shall file articles of dissolution for the
8 Butner Public Safety Authority with the Secretary of State. Upon filing those articles, all of the
9 property of the former Butner Public Safety Authority shall be distributed to the Town of
10 Butner.

11 **SECTION 16B.4.(c)** G.S. 143-341(8)(i)(3) reads as rewritten:

12 **"§ 143-341. Powers and duties of Department.**

13 The Department of Administration has the following powers and duties:

14 ...

15 (8) General Services:

16 ...

17 i. To establish and operate a central motor pool and such subsidiary
18 related facilities as the Secretary may deem necessary, and to that
19 end:

20 ...

21 3. To require on a schedule determined by the Department all
22 State agencies to transfer ownership, custody or control of
23 any or all passenger motor vehicles within the ownership,
24 custody or control of that agency to the Department, except
25 those motor vehicles under the ownership, custody or control
26 of the Highway Patrol, the State Bureau of Investigation, or
27 the constituent institutions of The University of North
28 Carolina which are used primarily for law-enforcement
29 purposes, and except those motor vehicles under the
30 ownership, custody or control of the Department of Public
31 Safety for Butner Public Safety which are used primarily for
32 law-enforcement, fire, or emergency purposes. purposes."

33 **SECTION 16B.4.(d)** G.S. 160A-288(d) reads as rewritten:

34 "(d) For purposes of this section, the following shall be considered the equivalent of a
35 municipal police department:

36 (1) Campus law-enforcement agencies established pursuant to
37 G.S. 115D-21.1(a) or G.S. 116-40.5(a).

38 (2) Colleges or universities which are licensed, or exempted from licensure, by
39 G.S. 116-15 and which employ company police officers commissioned by
40 the Attorney General pursuant to Chapter 74E or Chapter 74G of the General
41 Statutes.

42 (3) Law enforcement agencies operated or eligible to be operated by a
43 municipality pursuant to G.S. 63-53(2).

44 (4) ~~Butner Public Safety Authority.~~

45 (5) A Company Police agency of the Department of Agriculture and Consumer
46 Services commissioned by the Attorney General pursuant to Chapter 74E of
47 the General Statutes."

48 **SECTION 16B.4.(e)** G.S. 160A-288.2(d) reads as rewritten:

49 "(d) For the purposes of this section, the following shall be considered the equivalent of
50 a municipal police department:

51 (1) Campus law-enforcement agencies established pursuant to G.S. 116-40.5(a).

- 1 (2) Colleges or universities which are licensed, or exempted from licensure, by
2 G.S. 116-15 and which employ company police officers commissioned by
3 the Attorney General pursuant to Chapter 74E or Chapter 74G of the General
4 Statutes.
5 (3) ~~Butner Public Safety Authority."~~

6
7 **VOICE INTEROPERABILITY PLAN FOR EMERGENCY RESPONSE (VIPER)**
8 **SYSTEM**

9 **SECTION 16B.5.(a)** It is the intent of the General Assembly to continue to support
10 development and implementation of the State's Voice Interoperability Plan for Emergency
11 Response (VIPER) system in subsequent fiscal years. The Department is hereby authorized to
12 spend up to five million dollars (\$5,000,000) during the 2013-2014 fiscal year and ten million
13 dollars (\$10,000,000) during the 2014-2015 fiscal year to continue development and
14 implementation of the State's VIPER system by constructing towers that will facilitate system
15 expansion. Notwithstanding any other provision of law, State agencies, offices, commissions,
16 and non-State entities shall not spend more than the amount of State funds authorized in this
17 section for this purpose during the 2013-2015 fiscal biennium. This prohibition shall not be
18 construed to prevent the expenditure of federal funds. This section does not impair or authorize
19 the breach of any contract and instead affects the availability of appropriated funds within the
20 meaning of G.S. 143C-6-8 and the terms of the North Carolina Information Technology
21 Procurement Office General Terms and Conditions for Goods and Related Services related to
22 availability of funds as specified in the applicable contract or contract extension.

23 **SECTION 16B.5.(b)** The Department of Public Safety shall report to the Chairs of
24 the Joint Legislative Oversight Committee on Justice and Public Safety on a quarterly basis on
25 the progress of the State's VIPER system.
26

27 **SUBPART XVI-C. DIVISION OF ADULT CORRECTION**

28
29 **LIMIT USE OF OPERATIONAL FUNDS**

30 **SECTION 16C.1.** Funds appropriated in this act to the Department of Public
31 Safety for operational costs for additional facilities shall be used for personnel and operating
32 expenses set forth in the budget approved by the General Assembly. These funds shall not be
33 expended for any other purpose, except as provided for in this act, and shall not be expended
34 for additional prison personnel positions until the new facilities are within 120 days of
35 projected completion, except that the Department may establish critical positions prior to 120
36 days of completion representing no more than twenty percent (20%) of the total estimated
37 number of positions.
38

39 **REIMBURSE COUNTIES FOR HOUSING AND EXTRAORDINARY MEDICAL**
40 **COSTS FOR INMATES, PAROLEES, AND POST-RELEASE SUPERVISEES**
41 **AWAITING TRANSFER TO STATE PRISON SYSTEM**

42 **SECTION 16C.2.** Notwithstanding G.S. 143C-6-9, the Department of Public
43 Safety may use funds available to the Department for the 2013-2015 fiscal biennium to pay the
44 sum of forty dollars (\$40.00) per day as reimbursement to counties for the cost of housing
45 convicted inmates, parolees, and post-release supervisees awaiting transfer to the State prison
46 system, as provided in G.S. 148-29. The Department shall report quarterly to the Chairs of the
47 Joint Legislative Oversight Committee on Justice and Public Safety and the Chairs of the
48 House of Representatives Appropriations Subcommittee on Justice and Public Safety and
49 Senate Appropriations Committee on Justice and Public Safety on the expenditure of funds to
50 reimburse counties for prisoners awaiting transfer and on its progress in reducing the jail
51 backlog.

CENTER FOR COMMUNITY TRANSITIONS/CONTRACT AND REPORT

SECTION 16C.3. The Department of Public Safety may continue to contract with The Center for Community Transitions, Inc., a nonprofit corporation, for the purchase of prison beds for minimum security female inmates during the 2013-2015 fiscal biennium. The Center for Community Transitions, Inc., shall report by February 1 of each year to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety on the annual cost per inmate and the average daily inmate population compared to bed capacity using the same methodology as that used by the Department of Public Safety.

INMATE MEDICAL COSTS

SECTION 16C.4.(a) The Department of Public Safety shall reimburse those providers and facilities providing approved inmate medical services outside the correctional facility the lesser amount of either a rate of seventy percent (70%) of the provider's then-current prevailing charge or two times the then-current Medicaid rate for any given service. The Department shall have the right to audit any given provider to determine the actual prevailing charge to ensure compliance with this provision.

This section does apply to vendors providing services that are not billed on a fee-for-service basis, such as temporary staffing. Nothing in this section shall preclude the Department from contracting with a provider for services at rates that provide greater documentable cost avoidance for the State than do the rates contained in this section or at rates that are less favorable to the State but that will ensure the continued access to care.

SECTION 16C.4.(b) The Department of Public Safety shall make every effort to contain inmate medical costs by making use of its own hospital and health care facilities to provide health care services to inmates. To the extent that the Department of Public Safety must utilize other facilities and services to provide health care services to inmates, the Department shall make reasonable efforts to make use of hospitals or other providers with which it has a contract or, if none is reasonably available, hospitals with available capacity or other health care facilities in a region to accomplish that goal. The Department shall make reasonable efforts to equitably distribute inmates among all hospitals or other appropriate health care facilities.

SECTION 16C.4.(c) The Department of Public Safety shall report to the Joint Legislative Oversight Committee on Justice and Public Safety and the Chairs of the House of Representative Appropriations Subcommittee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety no later than November 1, 2013, and quarterly thereafter on:

- (1) The percentage of the total inmates requiring hospitalization or hospital services who receive that treatment at each hospital.
- (2) The volume of services provided by community medical providers that can be scheduled in advance and, of that volume, the percentage of those services that are provided by contracted providers.
- (3) The volume of services provided by community medical providers that cannot be scheduled in advance and, of that volume, the percentage of those services that are provided by contracted providers.
- (4) The volume of services provided by community medical providers that are emergent cases requiring hospital admissions and emergent cases not requiring hospital admissions.
- (5) The volume of inpatient medical services provided to Medicaid-eligible inmates, the cost of treatment, and the estimated savings of paying the nonfederal portion of Medicaid for the services.

- 1 (6) The status of the Division's efforts to contract with hospitals to provide
2 secure wards in each of the State's five prison regions.
3

4 ANNUAL REPORT ON SAFEKEEPERS

5 SECTION 16C.5. The Department of Public Safety shall report by October 1 of
6 each year to the Chairs of the House of Representatives Appropriations Subcommittee on
7 Justice and Public Safety, the Chairs of the Senate Appropriations Committee on Justice and
8 Public Safety, and the Chairs of the Joint Legislative Oversight Committee on Justice and
9 Public Safety on county prisoners housed in the State prison system pursuant to safekeeping
10 orders under G.S. 162-39(b) to avoid security risks in county jails or due to insufficient or
11 inadequate county facilities. The report shall include:

- 12 (1) The number of safekeepers currently housed by the Department.
13 (2) A list of the facilities where safekeepers are housed and the population of
14 safekeepers by facility.
15 (3) The average length of stay by a safekeeper in one of those facilities.
16 (4) The amount paid by counties for housing and extraordinary medical care of
17 safekeepers.
18 (5) A list of the counties in arrears for safekeeper payments owed to the
19 Department at the end of the fiscal year.
20

21 STATEWIDE MISDEMEANANT CONFINEMENT PROGRAM

22 SECTION 16C.6.(a) G.S. 148-10.4(e) reads as rewritten:

23 "(e) Operating and Administrative Expenses. ~~Ten percent (10%)~~ Five percent (5%) of the
24 monthly receipts collected and credited to the Statewide Misdemeanant Confinement Fund
25 shall be transferred on a monthly basis to the Sheriffs' Association to be used to support the
26 Program and for administrative and operating expenses of the Association and its staff. ~~One~~
27 ~~percent (1%)~~ Five percent (5%) of the monthly receipts collected and credited to the Statewide
28 Misdemeanant Confinement Fund shall be transferred on a monthly basis to the General Fund
29 to be allocated to the Division of Adult Correction for its administrative and operating expenses
30 for the Program."

31 SECTION 16C.6.(b) The North Carolina Sheriffs' Association shall report by
32 October 1 of each year to the Chairs of the House of Representatives Appropriations
33 Subcommittee on Justice and Public Safety, the Chairs of the Senate Appropriations Committee
34 on Justice and Public Safety, and to the Joint Legislative Oversight Committee on Justice and
35 Public Safety on the Statewide Misdemeanant Confinement Program. The report shall include
36 the following with respect to the prior fiscal year:

- 37 (1) Revenue collected by the Statewide Misdemeanant Confinement Program.
38 (2) The cost of housing prisoners by county under the Program.
39 (3) The cost of transporting prisoners by county under the Program.
40 (4) Personnel costs by county.
41 (5) Inmate medical care costs by county.
42 (6) The number of counties that volunteer to house inmates under the Program.
43 (7) The administrative costs paid to the Sheriffs' Association and to the
44 Department of Public Safety.
45

46 INMATE CONSTRUCTION PROGRAM

47 SECTION 16C.7. Notwithstanding G.S. 66-58 or any other provision of law,
48 during the 2013-2015 fiscal biennium, the State Construction Office may, wherever feasible,
49 utilize inmates in the custody of the Division of Adult Correction of the Department of Public
50 Safety through the Inmate Construction Program for repair and renovation projects on
51 State-owned facilities, with priority given to Department of Public Safety construction projects.

FOOTHILLS CORRECTIONAL INSTITUTION

SECTION 16C.8.(a) The Division of Adult Correction shall transfer 55 positions from Western Youth Institution to Foothills Correctional Institution to supervise the youthful offenders being transferred from Western Youth Institution to Foothills Correctional Institution.

SECTION 16C.8.(b) The Division of Adult Correction shall consolidate minimum custody treatment slots within the Alcoholism and Chemical Dependency Program Section in the Western Prison region to establish a substance abuse treatment center at Foothills Correctional Institution using the minimum custody housing and any necessary administrative space at Western Youth Institution no later than January 1, 2014.

SECTION 16C.8.(c) The Department of Public Safety shall consolidate all B.R.I.D.G.E. (Young Offenders Forest Conservation Program) units at the minimum custody inmates at Foothills Correctional Institution.

SECTION 16C.8.(d) The Division of Adult Correction shall study the feasibility of using the minimum custody units at Foothills Correctional Institution as a probation revocation center.

LEGAL RESEARCH SOFTWARE AND COMPUTER FACILITIES AVAILABLE TO INMATES

SECTION 16C.9. The Department of Public Safety shall develop and implement a system for the provision of legal research software on computer facilities available to inmates in the State prison system, in order to fulfill the State's responsibility to provide inmates in the custody of the Division of Adult Correction with legal assistance and access to the courts. The system shall make use of the most cost-effective legal research software available to meet the State's responsibility and shall be ready for use by inmates no later than July 1, 2013.

REPORT ON PROBATION AND PAROLE CASELOADS

SECTION 16C.10. Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-707.1. Report on probation and parole caseloads.

(a) The Department of Public Safety shall report by March 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Oversight Committee on Justice and Public Safety on caseload averages for probation and parole officers. The report shall include:

- (1) Data on current caseload averages and district averages for probation/parole officer positions.
- (2) Data on current span of control for chief probation officers.
- (3) An analysis of the optimal caseloads for these officer classifications.
- (4) The number and role of paraprofessionals in supervising low-risk caseloads.
- (5) The process of assigning offenders to an appropriate supervision level based on a risk/needs assessment.
- (6) Data on cases supervised solely for the collection of court-ordered payments.

(b) The Department of Public Safety shall report by March 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Oversight Committee on Justice and Public Safety on the following:

- (1) The number of sex offenders enrolled on active and passive GPS monitoring.
- (2) The caseloads of probation officers assigned to GPS-monitored sex offenders.
- (3) The number of violations.

1 (4) The number of absconders.

2 (5) The projected number of offenders to be enrolled by the end of the fiscal
3 year."

4
5 **PAROLE ELIGIBILITY REPORT/MUTUAL AGREEMENT PAROLE**
6 **PROGRAM/MEDICAL RELEASE PROGRAM**

7 **SECTION 16C.11.(a)** The Post-Release Supervision and Parole Commission shall,
8 with the assistance of the North Carolina Sentencing and Policy Advisory Commission and the
9 Department of Public Safety, analyze the amount of time each inmate who is eligible for parole
10 on or before July 1, 2014, has served compared to the time served by offenders under
11 Structured Sentencing for comparable crimes. The Commission shall determine if the person
12 has served more time in custody than the person would have served if sentenced to the
13 maximum sentence under the provisions of Article 81B of Chapter 15A of the General Statutes.
14 The "maximum sentence," for the purposes of this section, shall be calculated as set forth in
15 subsection (b) of this section.

16 **SECTION 16C.11.(b)** For the purposes of this section, the following rules apply
17 for the calculation of the maximum sentence:

18 (1) The offense upon which the person was convicted shall be classified as the
19 same felony class as the offense would have been classified if committed
20 after the effective date of Article 81B of Chapter 15A of the General
21 Statutes.

22 (2) The minimum sentence shall be the maximum number of months in the
23 presumptive range of minimum durations in Prior Record Level VI of
24 G.S. 15A-1340.17(c) for the felony class determined under subdivision (1)
25 of this subsection. The maximum sentence shall be calculated using
26 G.S. 15A-1340.17(d), (e), or (e1).

27 (3) If a person is serving sentences for two or more offenses that are concurrent
28 in any respect, then the offense with the greater classification shall be used
29 to determine a single maximum sentence for the concurrent offenses. The
30 fact that the person has been convicted of multiple offenses may be
31 considered by the Commission in making its determinations under
32 subsection (a) of this section.

33 **SECTION 16C.11.(c)** The Post-Release Supervision and Parole Commission shall
34 report to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety,
35 the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public
36 Safety, and the Chairs of the Senate Appropriations Committee on Justice and Public Safety by
37 April 1, 2014. The report shall include the following: the class of the offense for which each
38 parole-eligible inmate was convicted and whether an inmate had multiple criminal convictions.
39 The Commission shall reinitiate the parole review process for each offender who has served
40 more time than that person would have under Structured Sentencing as provided by subsections
41 (a) and (b) of this section.

42 The Commission shall also report on the number of parole-eligible inmates
43 reconsidered in compliance with this section and the number who were actually paroled.

44 **SECTION 16C.11.(d)** Article 13 of Chapter 143B of the General Statutes is
45 amended by adding a new section to read:

46 "§ 143B-707.2. Mutual agreement parole program report; medical release program
47 report.

48 (a) The Department of Correction and the Post-Release Supervision and Parole
49 Commission shall report by March 1 of each year to the Chairs of the House of Representatives
50 and Senate Appropriations Subcommittees on Justice and Public Safety and to the Chairs of the
51 Joint Legislative Oversight Committee on Justice and Public Safety on the number of inmates

1 enrolled in the mutual agreement parole program, the number completing the program and
2 being paroled, and the number who enrolled but were terminated from the program. The
3 information should be based on the previous calendar year.

4 (b) The Department of Public Safety and the Post-Release Supervision and Parole
5 Commission shall report by March 1 of each year to the Chairs of the House of Representatives
6 Appropriations Subcommittee on Justice and Public Safety, to the Chairs of the Senate
7 Appropriations Committee on Justice and Public Safety, and to the Chairs of the Joint
8 Legislative Oversight Committee on Justice and Public Safety on the number of inmates
9 proposed for release, considered for release, and granted release under Chapter 84B of Chapter
10 15A of the General Statutes, providing for the medical release of inmates who are either
11 permanently and totally disabled, terminally ill, or geriatric."

12 **REPORT ON TREATMENT FOR EFFECTIVE COMMUNITY SUPERVISION**

13 **SECTION 16C.12.** The Division of Community Corrections shall report by March
14 1 of each year to the Chairs of the House of Representatives Appropriations Subcommittee on
15 Justice and Public Safety, the Chairs of the Senate Appropriations Committee on Justice and
16 Public Safety, and the Joint Legislative Oversight Committee on Justice and Public Safety on
17 the status of the Treatment for Effective Community Supervision (TECS) program. The report
18 shall include the following information:

- 19 (1) The amount of funds carried over from the prior fiscal year.
- 20 (2) The dollar amount and purpose of contracts awarded to vendors for the
21 current fiscal year.
- 22 (3) An update on efforts to ensure that all counties make use of the electronic
23 reporting system, including the number of counties submitting offender
24 participation via the system.
- 25 (4) An analysis of offender participation data received, including data on each
26 program's utilization, capacity, and completion rates.
- 27 (5) The number of offenders served by each contracted vendor.
- 28 (6) The outcome measures for program participants, including the rates of
29 recidivism, employment status, and educational progress of participants.
- 30

31 **JUSTICE REINVESTMENT ACT/LIMITED AUTHORITY TO RECLASSIFY** 32 **VACANT POSITIONS**

33 **SECTION 16C.13.(a)** Notwithstanding any other provision of law, subject to the
34 approval of the Director of the Budget, the Secretary of Public Safety may reclassify vacant
35 positions within the Department to create up to 25 new chief probation/parole officer positions
36 in order to meet the increasing caseloads resulting from the implementation of the Justice
37 Reinvestment Act of 2011, S.L. 2011-192, as amended.

38 **SECTION 16C.13.(b)** The Department of Public Safety shall report to the Chairs
39 of the Senate Appropriations Committee on Justice and Public Safety and the House
40 Appropriations Subcommittee on Justice and Public Safety by March 1, 2014, on the following:

- 41 (1) The position number, position type, salary, and position location of each new
42 position created under the authority of this section.
- 43 (2) The position number, position type, fund code, and position location of each
44 vacant position used to create new positions under the authority of this
45 section.
- 46

47 **SUBPART XVI-D. DIVISION OF JUVENILE JUSTICE**

48 **ANNUAL EVALUATION OF COMMUNITY PROGRAMS AND MULTIPLE** 49 **PURPOSE GROUP HOMES**

1 **SECTION 16D.1.** Subpart B of Part 3 of Article 13 of Chapter 143B of the
2 General Statutes is amended by adding a new section to read:

3 **"§ 143B-811. Annual evaluation of community programs and multiple purpose group**
4 **homes.**

5 The Department of Public Safety shall conduct an annual evaluation of the community
6 programs and of multipurpose group homes. In conducting the evaluation of each of these, the
7 Department shall consider whether participation in each program results in a reduction of court
8 involvement among juveniles. The Department shall also determine whether the programs are
9 achieving the goals and objectives of the Juvenile Justice Reform Act, S.L. 1998-202.

10 The Department shall report the results of the evaluation to the Chairs of the Joint
11 Legislative Oversight Committee on Justice and Public Safety and the Chairs of the Senate and
12 House of Appropriations Subcommittees on Justice and Public Safety by March 1 of each
13 year."

14 15 **JUVENILE CRIME PREVENTION COUNCIL FUNDS**

16 **SECTION 16D.2.(a)** Subpart F of Part 3 of Article 13 of Chapter 143B of the
17 General Statutes is amended by adding a new section to read:

18 **"§ 143B-852. Department of Public Safety to report on Juvenile Crime Prevention**
19 **Council grants.**

20 (a) On or before February 1 of each year, the Department of Public Safety shall submit
21 to the Chairs of the Joint Legislative Commission on Governmental Operations and the Chairs
22 of the Senate and House of Representatives Appropriations Subcommittees on Justice and
23 Public Safety a list of the recipients of the grants awarded, or preapproved for award, from
24 funds appropriated to the Department for local Juvenile Crime Prevention Council (JCPC)
25 grants, including the following information:

- 26 (1) The amount of the grant awarded.
- 27 (2) The membership of the local committee or council administering the award
28 funds on the local level.
- 29 (3) The type of program funded.
- 30 (4) A short description of the local services, programs, or projects that will
31 receive funds.
- 32 (5) Identification of any programs that received grant funds at one time but for
33 which funding has been eliminated by the Department.
- 34 (6) The number of at-risk, diverted, and adjudicated juveniles served by each
35 county.
- 36 (7) The Department's actions to ensure that county JCPCs prioritize funding for
37 dispositions of intermediate and community-level sanctions for
38 court-adjudicated juveniles under minimum standards adopted by the
39 Department.
- 40 (8) The total cost for each funded program, including the cost per juvenile and
41 the essential elements of the program.

42 (b) On or before February 1 of each year, the Department of Public Safety shall send to
43 the Fiscal Research Division of the Legislative Services Commission an electronic copy of the
44 list and information required under subsection (a) of this section."

45 **SECTION 16D.2.(b)** Of the funds appropriated by this act for the 2013-2015 fiscal
46 biennium to the Department of Public Safety for Juvenile Crime Prevention Council grants, the
47 sum of one hundred twenty-one thousand six hundred dollars (\$121,600) for the 2013-2014
48 fiscal year and the sum of one hundred twenty-one thousand six hundred dollars (\$121,600) for
49 the 2014-2015 fiscal year shall be transferred to Project Challenge North Carolina, Inc., to be
50 used for the continued support of Project Challenge programs throughout the State.
51

YOUTH DEVELOPMENT CENTER ANNUAL REPORT

SECTION 16D.3. Subpart B of Part 3 of Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-810. Youth Development Center annual report.

The Department of Public Safety shall report by October 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety, the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety, and the Fiscal Research Division of the Legislative Services Commission on the Youth Development Center (YDC) population, staffing, and capacity in the preceding fiscal year. Specifically, the report shall include all of the following:

- (1) The on-campus population of each YDC, including the county the juveniles are from.
- (2) The housing capacity of each YDC.
- (3) A breakdown of staffing for each YDC, including number, type of position, position title, and position description.
- (4) The per-bed and average daily population cost for each facility.
- (5) The operating cost for each facility, including personnel and nonpersonnel items.
- (6) A brief summary of the treatment model, education, services, and plans for reintegration into the community offered at each facility.
- (7) The average length of stay in the YDCs.
- (8) The number of incidents of assaults and attacks on staff at each facility."

JUVENILE FACILITY MONTHLY COMMITMENT REPORT

SECTION 16D.4. Subpart C of Part 3 of Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-822. Juvenile facility monthly commitment report.

The Department of Public Safety shall report electronically on the first day of each month to the Fiscal Research Division regarding each juvenile correctional facility and the average daily population for the previous month. The report shall include (i) the average daily population for each detention center and (ii) the monthly summary of the Committed Youth Report."

LIMIT USE OF COMMUNITY PROGRAM FUNDS

SECTION 16D.5.(a) Funds appropriated in this act to the Department of Public Safety for the 2013-2015 fiscal biennium for community program contracts that are not required for or used for community program contracts shall only be used for the following:

- (1) Other statewide residential programs that provide Level 2 intermediate dispositional alternatives for juveniles.
- (2) Statewide community programs that provide Level 2 intermediate dispositional alternatives for juveniles.
- (3) Regional programs that are collaboratives of two or more Juvenile Crime Prevention Councils which provide Level 2 intermediate dispositional alternatives for juveniles.
- (4) The Juvenile Crime Prevention Council grants fund to be used for the Level 2 intermediate dispositional alternatives for juveniles listed in G.S. 7B-2506(13) through (23).

SECTION 16D.5.(b) Under no circumstances shall funds appropriated by this act to the Department of Public Safety for the 2013-2015 fiscal biennium for community programs be used for staffing, operations, maintenance, or any other expenses of youth development centers or detention facilities.

1 **SECTION 16D.5.(c)** The Department of Public Safety shall submit an electronic
2 report by October 1, 2013, on all expenditures made from the miscellaneous contract line in
3 Fund Code 1230 to the Chairs of the House of Representatives Appropriations Subcommittee
4 on Justice and Public Safety, the Chairs of the Senate Appropriations Committee on Justice and
5 Public Safety, and the Fiscal Research Division. The report shall include all of the following:
6 an itemized list of the contracts that have been executed, the amount of each contract, the date
7 the contract was executed, the purpose of the contract, the number of juveniles that will be
8 served and the manner in which they will be served, the amount of money transferred to the
9 Juvenile Crime Prevention Council fund, and an itemized list of grants allocated from the funds
10 transferred to the Juvenile Crime Prevention Council fund.

11 12 **MULTIPURPOSE GROUP HOME**

13 **SECTION 16D.6.** Of the funds appropriated in this act to the Department of Public
14 Safety for the Division of Juvenile Justice for the 2013-2015 fiscal biennium, the sum of five
15 hundred fifty thousand dollars (\$550,000) for the 2013-2014 fiscal year and the sum of five
16 hundred fifty thousand dollars (\$550,000) for the 2014-2015 fiscal year shall be used to
17 continue operating a multipurpose group home in Craven County.

18 19 **DIRECTOR/ADMINISTRATIVE HEAD OF JUVENILE JUSTICE DIVISION**

20 **SECTION 16D.7.(a)** G.S. 143B-806 reads as rewritten:

21 "**§ 143B-806. Duties and powers of the Division of Juvenile Justice of the Department of**
22 **Public Safety.**

23 (a) The head of the Division is a ~~Chief Deputy Secretary~~Director appointed by the
24 Secretary of Public Safety. The ~~Chief Deputy Secretary~~Director shall have the powers and
25 duties conferred by this ~~Chapter, Part,~~ delegated by the Secretary of Public Safety or the
26 Governor, and conferred by the Constitution and laws of this State. The Secretary of Public
27 Safety shall be responsible for effectively and efficiently organizing the Division to promote
28 the policy of the State as set forth in this Part and to promote public safety and to prevent the
29 commission of delinquent acts by juveniles.

30 (b) The ~~Chief Deputy Secretary~~Director shall have the following powers and duties:

31 ...

32 "

33 **SECTION 16D.7.(b)** G.S. 153A-221.1 reads as rewritten:

34 "**§ 153A-221.1. Standards and inspections.**

35 The legal responsibility of the ~~Chief Deputy Secretary of~~Director of the Division of
36 Juvenile Justice of the Department of Public Safety for State services to county juvenile
37 detention homes under this Article is hereby confirmed and shall include the following:
38 development of State standards under the prescribed procedures; inspection; consultation;
39 technical assistance; and training.

40 The Secretary of Health and Human Services, in consultation with the ~~Chief Deputy~~
41 ~~Secretary~~Director of the Division of Juvenile Justice of the Department of Public Safety, shall
42 also develop standards under which a local jail may be approved as a holdover facility for not
43 more than five calendar days pending placement in a juvenile detention home which meets
44 State standards, providing the local jail is so arranged that any child placed in the holdover
45 facility cannot converse with, see, or be seen by the adult population of the jail while in the
46 holdover facility. The personnel responsible for the administration of a jail with an approved
47 holdover facility shall provide close supervision of any child placed in the holdover facility for
48 the protection of the child."

49 50 **PART XVII. DEPARTMENT OF JUSTICE**

BIANNUAL REPORTING ON ATTORNEY ACTIVITY

SECTION 17.1. Beginning on August 1, 2013, and every six months thereafter, the Attorney General shall report on the work of Department of Justice attorneys during the previous two quarters. The reports required by this section shall be filed with the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, with the Chairs of the Senate Appropriations Committee on Justice and Public Safety, with the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety, and with the Fiscal Research Division as follows:

- (1) Agency-specific work. – A report on the work of Department of Justice attorneys for State agencies. This report shall include at least all of the following information:
 - a. The amount of time spent working for each State department and agency.
 - b. The amount of time spent on each case for each State department and agency.
 - c. The amount billed to each State agency for the legal services provided.
- (2) Other work. – A report on the work of Department of Justice attorneys that is not on behalf of a particular State agency. The report required by this subdivision shall include all of the information required by subdivision (1) of this section and all of the following information:
 - a. The amount of time spent by each unit of the Department of Justice.
 - b. The amount of time spent on each particular matter for each unit of the Department of Justice.

ANNUAL CRIME LAB REPORT

SECTION 17.2. Beginning on October 1, 2013, and yearly thereafter, the Attorney General shall report on the work of the North Carolina State Crime Laboratory during the previous fiscal year. The reports required by this section shall be filed with the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety and with the Fiscal Research Division. Each report shall include at least the following:

- (1) Summary information about the workload of the Laboratory.
- (2) Information about the number and type of different procedures and analyses performed by the Laboratory.
- (3) A geographical breakdown by county of the number and type of requests for the various procedures and analyses performed by the Laboratory.
- (4) An estimate of the dollar and time cost to perform each type of procedure and analysis performed by the Laboratory.

DEVELOPMENT OF TRAINING PROGRAM ON PROPER PROCEDURES FOR SUBMISSION OF EVIDENCE TO THE CRIME LAB

SECTION 17.3.(a) The North Carolina State Crime Laboratory, in conjunction with The University of North Carolina School of Government and the Conference of District Attorneys, shall develop a training program for district attorneys on proper procedures for submitting evidence to the North Carolina State Crime Laboratory. In order to ensure that it will be practicable to require all district attorneys in the State to receive the training in the future, the program shall be (i) designed with the time and resource constraints of district attorneys in mind and (ii) designed in a way that makes the program suitable for regional distribution and distribution through distance learning facilities at community colleges.

SECTION 17.3.(b) No later than October 1, 2013, the North Carolina State Crime Laboratory shall report its progress on developing the training program to the Chairs of the

1 House of Representatives Appropriations Subcommittee on Justice and Public Safety, to the
2 Senate Appropriations Committee on Justice and Public Safety, to the Chairs of the Joint
3 Legislative Oversight Committee on Justice and Public Safety, and to the Fiscal Research
4 Division.

6 **USE OF TOXICOLOGY ANALYSIS FUNDS**

7 **SECTION 17.4.** If the Attorney General determines that it is not appropriate to
8 outsource toxicology cases due to legal or fiscal concerns involving analyst testimony, funds
9 appropriated in this act for that purpose shall be reallocated to increase toxicology analysis
10 capabilities within the North Carolina State Crime Laboratory.

12 **NO HIRING OF SWORN STAFF POSITIONS FOR THE NORTH CAROLINA STATE 13 CRIME LABORATORY**

14 **SECTION 17.5.** The Department of Justice shall not hire sworn personnel to fill
15 vacant positions in the North Carolina State Crime Laboratory. Nothing in this section shall be
16 construed to require the termination of sworn personnel, but as vacant positions in the State
17 Laboratory are filled, they shall be filled only with non-sworn personnel.

19 **TRANSFER MOST OF THE SBI TO THE DEPARTMENT OF PUBLIC SAFETY**

21 **TRANSFER OF STATE BUREAU OF INVESTIGATION AND DIVISION OF 22 CRIMINAL INFORMATION**

23 **SECTION 17.6.(a)** The North Carolina State Crime Laboratory, the State DNA
24 Database and Databank, the Public Corruption Section of the Professional Standards Division
25 of the State Bureau of Investigation, and the 16 information technology positions that currently
26 serve the information technology needs of the Department of Justice are hereby transferred
27 from the State Bureau of Investigation and shall be relocated elsewhere within the Department
28 of Justice as determined by the Attorney General.

29 **SECTION 17.6.(b)** Except for the components transferred pursuant to subsection
30 (a) of this section, the State Bureau of Investigation is hereby transferred to the Department of
31 Public Safety as a new section within the Law Enforcement Division. This transfer shall have
32 all of the elements of a Type I transfer, as described in G.S. 143A-6.

33 **SECTION 17.6.(c)** The Division of Criminal Information is hereby transferred to
34 the Department of Public Safety. This transfer shall have all of the elements of a Type I
35 transfer, as described in G.S. 143A-6.

37 **CREATION OF STATUTORY SUBPARTS**

38 **SECTION 17.6.(d)** Part 4 of Article 13 of Chapter 143B of the General Statutes is
39 amended by adding a new Subpart to read:

40 "Subpart A. General Provisions."

41 **SECTION 17.6.(e)** Part 4 of Article 13 of Chapter 143B of the General Statutes is
42 amended by adding a new Subpart to read:

43 "Subpart B. State Capitol Police."

44 **SECTION 17.6.(f)** Part 4 of Article 13 of Chapter 143B of the General Statutes is
45 amended by adding a new Subpart to read:

46 "Subpart C. State Bureau of Investigation – General Powers and Duties."

48 **REPEAL OF CERTAIN STATUTES AND RECODIFICATION OF OTHER 49 AFFECTED STATUTES**

50 **SECTION 17.6.(h)** G.S. 114-13 is repealed.

1 **SECTION 17.6.(i)** G.S. 114-2.7 is recodified as G.S. 143B-901 under Subpart A of
2 Article 13 of Chapter 143B of the General Statutes, as created by subsection (d) of this section.

3 **SECTION 17.6.(j)** G.S. 114-10 through G.S. 114-10.1 are recodified as
4 G.S. 143B-902 through G.S. 143B-905 under Subpart A of Article 13 of Chapter 143B of the
5 General Statutes, as created by subsection (d) of this section.

6 **SECTION 17.6.(k)** G.S. 143B-900 is recodified as G.S. 143B-906 under Subpart B
7 of Article 13 of Chapter 143B of the General Statutes, as created by subsection (e) of this
8 section.

9 **SECTION 17.6.(l)** The following statutes are recodified as G.S. 143B-907 through
10 G.S. 143B-917 under Subpart C of Article 13 of Chapter 143B of the General Statutes, as
11 created by subsection (f) of this section: G.S. 114-12, 114-12.1, 114-14 through 114-15.3, and
12 114-17 through 114-19.

13 **SECTION 17.6.(m)** Part 2 of Article 4 of Chapter 114 of the General Statutes is
14 recodified as Subpart D of Article 13 of Chapter 143B of the General Statutes, "State Bureau of
15 Investigation – Criminal History Record Checks," G.S. 143B-920 through G.S. 143B-972.
16 Statutory sections of the former statutes that were reserved for future codification shall have
17 corresponding sections that are reserved for future codification in the recodified statutes.

18 **SECTION 17.6.(n)** Part 3 of Article 4 of Chapter 114 of the General Statutes is
19 recodified as Subpart E of Article 13 of Chapter 143B of the General Statutes, "State Bureau of
20 Investigation – Protection of Public Officials," G.S. 143B-975 through G.S. 143B-976.

21 **OTHER CHANGES**

22 **SECTION 17.6.(o)** The following statutes, as recodified by subsections (i) through
23 (n) of this section, as applicable, are amended by deleting the language "Department of Justice"
24 wherever it appears and substituting "Department of Public Safety": G.S. 14-208.15A,
25 53-244.050, 58-71-51, 58-89A-60, 66-407, 74C-8.1, 74D-2.1, 84-24, 90-11, 90-30, 90-85.15,
26 90-102.1, 90-113.5, 90-143.3, 90-210.25, 90-224, 90-652, 90D-7, 93A-4, 95-47.2, 106-65.26,
27 110-90.2, 114-12.1, 114-19.1 through 114-19.32, 115C-238.29K, 115C-238.73, 131D-10.3A,
28 143-166.13, and 160A-304.

29 **SECTION 17.6.(p)** The following statute is amended by deleting the language
30 "State Bureau of Investigation" wherever it appears and substituting "North Carolina State
31 Crime Laboratory": G.S. 14-269.1.

32 **SECTION 17.6.(q)** The following statutes, as recodified by subsections (i) through
33 (n) of this section, as applicable, are amended by deleting the language "Attorney General"
34 wherever it appears and substituting "Secretary of Public Safety": G.S. 15A-1475, 58-79-1
35 through 58-79-15, 58-79-25, 114-15.2, and 163-278.

36 **SECTION 17.6.(r)** The following statutes, as recodified by subsections (i) through
37 (n) of this section, as applicable, are amended by deleting the language "Director of the State
38 Bureau of Investigation" or "Director of the Bureau" wherever it appears and substituting
39 "Secretary of Public Safety": G.S. 7A-375, 7B-1402, 7B-1404, 15A-1383, 20-39.1, 114-14.1,
40 114-15.1, 114-15.3.

41 **SECTION 17.6.(s)** The following statutes, as recodified by subsections (i) through
42 (n) of this section, as applicable, are amended by deleting the language "Division of Criminal
43 Information" and "State Bureau of Investigation's Division of Criminal Information" wherever
44 it appears and substituting "Department of Public Safety": G.S. 7B-2507, 15A-1340.14,
45 15A-1340.21, 20-26, 85B-3.2, 114-19.6, 114-19.12, 114-19.23, 114-19.50, 122C-80.

46 **SECTION 17.6.(t)** The following statutes, as recodified by subsections (i) through
47 (n) of this section, as applicable, are amended by deleting the language "Division" wherever it
48 appears and substituting "Department of Public Safety": G.S. 14-208.7, 14-208.8, 14-208.8A,
49 14-208.9, 14-208.9A, 14-208.12A, 14-208.15, 14-208.15A, 14-208.22, and 14-208.27.
50

1 However, no substitution shall be made under this subsection to instances of the word
2 "Division" that appear in the phrase "Division of Adult Correction."

3 **SECTION 17.6.(t1)** The following statutes are amended by deleting "SBI"
4 wherever it appears and substituting "Department of Justice": G.S. 15A-146 and G.S. 15A-148.

5 **SECTION 17.6.(t2)** The following statutes are amended by deleting "SBI"
6 wherever it appears and substituting "Department": G.S. 15A-266.3, 15A-266.3A, 15A-266.5,
7 15A-266.6, 15A-266.7, 15A-266.8, 15A-266.9, 15A-266.12, 15A-267, and 15A-268.

8 **SECTION 17.6.(u)** G.S. 7A-304(a) reads as rewritten:

9 "(a) In every criminal case in the superior or district court, wherein the defendant is
10 convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the
11 prosecuting witness, the following costs shall be assessed and collected. No costs may be
12 assessed when a case is dismissed. Only upon entry of a written order, supported by findings of
13 fact and conclusions of law, determining that there is just cause, the court may (i) waive costs
14 assessed under this section or (ii) waive or reduce costs assessed under subdivisions (7) or (8)
15 of this section.

16 ...

17 (7) For the services of the North Carolina State Crime Laboratory facilities, the
18 district or superior court judge shall, upon conviction, order payment of the
19 sum of six hundred dollars (\$600.00) to be remitted to the Department of
20 Justice for support of the ~~State Bureau of Investigation Laboratory~~. This cost
21 shall be assessed only in cases in which, as part of the investigation leading
22 to the defendant's conviction, the laboratories have performed DNA analysis
23 of the crime, tests of bodily fluids of the defendant for the presence of
24 alcohol or controlled substances, or analysis of any controlled substance
25 possessed by the defendant or the defendant's agent.

26 (8) For the services of any crime laboratory facility operated by a local
27 government or group of local governments, the district or superior court
28 judge shall, upon conviction, order payment of the sum of six hundred
29 dollars (\$600.00) to be remitted to the general fund of the local
30 governmental unit that operates the laboratory to be used for law
31 enforcement purposes. The cost shall be assessed only in cases in which, as
32 part of the investigation leading to the defendant's conviction, the laboratory
33 has performed DNA analysis of the crime, test of bodily fluids of the
34 defendant for the presence of alcohol or controlled substances, or analysis of
35 any controlled substance possessed by the defendant or the defendant's
36 agent. The costs shall be assessed only if the court finds that the work
37 performed at the local government's laboratory is the equivalent of the same
38 kind of work performed by the ~~State Bureau of Investigation~~ North Carolina
39 State Crime Laboratory under subdivision (7) of this subsection.

40 (9) For the support and services of the ~~State Bureau of Investigation~~ State DNA
41 Database and DNA Databank, the sum of two dollars (\$2.00). This amount
42 is annually appropriated to the Department of Justice for this purpose.
43 Notwithstanding the provisions of subsection (e) of this section, this cost
44 does not apply to infractions.

45"

46 **SECTION 17.6.(v)** G.S. 7A-349 reads as rewritten:

47 **"§ 7A-349. Criminal history record check; denial of employment, contract, or volunteer
48 opportunity.**

49 The Judicial Department may deny employment, a contract, or a volunteer opportunity to
50 any person who refuses to consent to a criminal history check authorized under G.S. 114-19.19
51 and may dismiss a current employee, terminate a contractor, or terminate a volunteer

1 relationship if that employee, contractor, or volunteer refuses to consent to a criminal history
2 record check authorized under ~~G.S. 114-19.19~~ G.S. 143B-941."

3 **SECTION 17.6.(w)** G.S. 7B-1904 reads as rewritten:

4 **"§ 7B-1904. Order for secure or nonsecure custody.**

5 The custody order shall be in writing and shall direct a law enforcement officer or other
6 authorized person to assume custody of the juvenile and to make due return on the order. The
7 official executing the order shall give a copy of the order to the juvenile's parent, guardian, or
8 custodian. If the order is for nonsecure custody, the official executing the order shall also give a
9 copy of the petition and order to the person or agency with whom the juvenile is being placed.
10 If the order is for secure custody, copies of the petition and custody order shall accompany the
11 juvenile to the detention facility or holdover facility of the jail. A message of ~~the Division of~~
12 ~~Criminal Information, State Bureau of Investigation,~~ the Department of Public Safety, stating
13 that a juvenile petition and secure custody order relating to a specified juvenile are on file in a
14 particular county shall be authority to detain the juvenile in secure custody until a copy of the
15 juvenile petition and secure custody order can be forwarded to the juvenile detention facility.
16 The copies of the juvenile petition and secure custody order shall be transmitted to the
17 detention facility no later than 72 hours after the initial detention of the juvenile.

18 An officer receiving an order for custody which is complete and regular on its face may
19 execute it in accordance with its terms and need not inquire into its regularity or continued
20 validity, nor does the officer incur criminal or civil liability for its execution."

21 **SECTION 17.6.(x)** G.S. 14-16.9 reads as rewritten:

22 **"§ 14-16.9. Officers-elect to be covered.**

23 Any person who has been elected to any office covered by this Article but has not yet taken
24 the oath of office shall be considered to hold the office for the purpose of this Article and
25 ~~G.S. 114-15~~ G.S. 143B-911."

26 **SECTION 17.6.(y)** G.S. 14-132(c)(3) reads as rewritten:

27 "(3) Designated by the ~~Attorney General~~ Secretary of Public Safety in accordance
28 with ~~G.S. 114-20.1~~ G.S. 143B-976."

29 **SECTION 17.6.(z)** G.S. 14-208.6 reads as rewritten:

30 **"§ 14-208.6. Definitions.**

31 The following definitions apply in this Article:

32 ...

33 (1c) ~~"Division"~~ "Department" means the ~~Division of Criminal Information of the~~
34 ~~Department of Justice~~ Department of Public Safety.

35 ...

36 (8) "Statewide registry" means the central registry compiled by the ~~Division~~
37 Department in accordance with G.S. 14-208.14.

38"

39 **SECTION 17.6.(aa)** G.S. 14-208.13 reads as rewritten:

40 **"§ 14-208.13. File with ~~Police-Criminal Information Network~~.**

41 (a) The ~~Division-Department of Public Safety~~ shall include the registration information
42 in the ~~Police-Criminal Information Network~~ as set forth in ~~G.S. 114-10.1~~ G.S. 143B-905.

43 (b) The ~~Division-Department of Public Safety~~ shall maintain the registration
44 information permanently even after the registrant's reporting requirement expires."

45 **SECTION 17.6.(bb)** G.S. 14-208.14 reads as rewritten:

46 **"§ 14-208.14. Statewide registry; ~~Division of Criminal Statistics~~ Department of Public**
47 **Safety designated custodian of statewide registry.**

48 (a) The ~~Division of Criminal Statistics-Department of Public Safety~~ shall compile and
49 keep current a central statewide sex offender registry. The ~~Division-Department~~ is the State
50 agency designated as the custodian of the statewide registry. As custodian the ~~Division~~
51 Department has the following responsibilities:

- 1 (1) To receive from the sheriff or any other law enforcement agency or penal
2 institution all sex offender registrations, changes of address, changes of
3 academic or educational employment status, and prerelease notifications
4 required under this Article or under federal law. The ~~Division~~Department
5 shall also receive notices of any violation of this Article, including a failure
6 to register or a failure to report a change of address.
- 7 (2) To provide all need-to-know law enforcement agencies (local, State,
8 campus, federal, and those located in other states) immediately upon receipt
9 by the ~~Division~~Department of any of the following: registration
10 information, a prerelease notification, a change of address, a change of
11 academic or educational employment status, or notice of a violation of this
12 Article.
- 13 (2a) To notify the appropriate law enforcement unit at an institution of higher
14 education as soon as possible upon receipt by the ~~Division~~Department of
15 relevant information based on registration information or notice of a change
16 of academic or educational employment status. If an institution of higher
17 education does not have a law enforcement unit, then the
18 ~~Division~~Department shall provide the information to the local law
19 enforcement agency that has jurisdiction for the campus.
- 20 (3) To coordinate efforts among law enforcement agencies and penal institutions
21 to ensure that the registration information, changes of address, change of
22 name, prerelease notifications, and notices of failure to register or to report a
23 change of address are conveyed in an appropriate and timely manner.
- 24 (4) To provide public access to the statewide registry in accordance with this
25 Article.
- 26 (4a) To maintain the system for public access so that a registrant's full name, any
27 aliases, and any legal name changes are cross-referenced and a member of
28 the public may conduct a search of the system for a registrant under any of
29 those names.
- 30 (5) To maintain a system allowing an entity to access a list of online identifiers
31 of persons in the central sex offender registry.
- 32 (b) The statewide registry shall include the following:

33 (1) Registration information obtained by a sheriff or penal institution under this
34 Article or from any other local or State law enforcement agency.

35 (2) Registration information received from a state or local law enforcement
36 agency or penal institution in another state.

37 (3) Registration information received from a federal law enforcement agency or
38 penal institution."

39 **SECTION 17.6.(cc)** G.S. 14-208.31 reads as rewritten:

40 **"§ 14-208.31. File with ~~Police~~Criminal Information Network.**

41 (a) The ~~Division~~Department of Public Safety shall include the registration information
42 in the ~~Police~~Criminal Information Network as set forth in ~~G.S. 114-10.1~~G.S. 143B-905.

43 (b) The ~~Division~~Department of Public Safety shall maintain the registration
44 information permanently even after the registrant's reporting requirement expires; however, the
45 records shall remain confidential in accordance with Article 32 of Chapter 7B of the General
46 Statutes."

47 **SECTION 17.6.(dd)** G.S. 14-415.4(d)(5) reads as rewritten:

48 "(5) The petitioner submits his or her fingerprints to the sheriff of the county in
49 which the petitioner resides for a criminal background check pursuant to
50 ~~G.S. 114-19.28~~G.S. 143B-950."

51 **SECTION 17.6.(ee)** G.S. 15A-1341(d) reads as rewritten:

1 "(d) Search of Sex Offender Registration Information Required When Placing a
2 Defendant on Probation. – When the court places a defendant on probation, the probation
3 officer assigned to the defendant shall conduct a search of the defendant's name or other
4 identifying information against the registration information regarding sex offenders compiled
5 by the ~~Division of Criminal Statistics of the Department of Justice~~Department of Public Safety
6 in accordance with Article 27A of Chapter 14 of the General Statutes. The probation officer
7 may conduct the search using the Internet site maintained by the ~~Division of Criminal~~
8 ~~Statistics~~Department of Public Safety."

9 **SECTION 17.6.(ee1)** G.S. 15A-266.2 reads as rewritten:

10 **"§ 15A-266.2. Definitions.**

11 As used in this Article, unless another meaning is specified or the context clearly requires
12 otherwise, the following terms have the meanings specified:

13 ...

14 (1e) Department. – The Department of Justice.

15 ...

16 (6) ~~"SBI" means the State Bureau of Investigation. The SBI is responsible for~~
17 ~~the policy, management, and administration of the State DNA identification~~
18 ~~record system to support law enforcement and other criminal justice~~
19 ~~agencies.~~

20 ...

21 (8) "State DNA Database" means the ~~SBI's~~Department of Justice's DNA
22 identification record system to support law enforcement. It is administered
23 by the ~~SBI~~Department of Justice and provides DNA records to the FBI for
24 storage and maintenance in CODIS. The ~~SBI's~~Department's DNA Database
25 system is the collective capability provided by computer software and
26 procedures administered by the ~~SBI~~Department to store and maintain DNA
27 records related to: forensic casework; convicted offenders and arrestees
28 required to provide a DNA sample under this Article; persons required to
29 register as sex offenders under G.S. 14-208.7; unidentified persons or body
30 parts; missing persons; relatives of missing persons; and anonymous DNA
31 profiles used for forensic validation, forensic protocol development, or
32 quality control purposes or establishment of a population statistics database
33 for use by criminal justice agencies."

34 **SECTION 17.6.(ee2)** G.S. 15A-266.3A(d) reads as rewritten:

35 "(d) After taking a DNA sample from an arrested person required to provide a DNA
36 sample pursuant to this section, the person taking the DNA sample shall provide the arrested
37 person with a written notice of the procedures for seeking an expunction of the DNA sample
38 pursuant to subsections (h), (i), (j), (k), and (l) of this section. The Department of ~~Justice~~
39 provide the written notice required by this subsection."

40 **SECTION 17.6.(ee3)** G.S. 15A-266.3A(h) reads as rewritten:

41 "(h) The ~~State Bureau of Investigation~~Department shall remove a person's DNA record,
42 and destroy any DNA biological samples that may have been retained, from the State DNA
43 Database and DNA Databank if both of the following are determined pursuant to subsection (i)
44 of this section:

45"

46 **SECTION 17.6.(ee4)** G.S. 15A-269(b1) reads as rewritten:

47 "(b1) If the court orders DNA testing, such testing shall be conducted by an ~~SBI-approved~~
48 Department-approved testing facility, mutually agreed upon by the petitioner and the State and
49 approved by the court. If the parties cannot agree, the court shall designate the testing facility
50 and provide the parties with reasonable opportunity to be heard on the issue."

51 **SECTION 17.6.(gg)** G.S. 18C-151(a)(3) reads as rewritten:

1 "(3) All proposals shall be accompanied by a bond or letter of credit in an amount
2 equal to not less than five percent (5%) of the proposal and the fee to cover
3 the cost of the criminal record check conducted under
4 G.S. 114-19.6. G.S. 143B-926."

5 **SECTION 17.6.(hh)** G.S. 48-3-309 reads as rewritten:

6 "**§ 48-3-309. Mandatory preplacement criminal checks of prospective adoptive parents**
7 **seeking to adopt a minor who is in the custody or placement responsibility of a**
8 **county department of social services and mandatory preplacement criminal**
9 **checks of all individuals 18 years of age or older who reside in the prospective**
10 **adoptive home.**

11 ...

12 (c) The ~~Department of Justice~~ Department of Public Safety shall provide to the
13 Department of Health and Human Services the criminal history of any individual required to be
14 checked under subsection (a) of this section as requested by the Department and obtained from
15 the State and National Repositories of Criminal Histories. The Department shall provide to the
16 ~~Department of Justice, Department of Public Safety,~~ along with the request, the fingerprints of
17 any individual to be checked, any additional information required by the ~~Department of~~
18 ~~Justice, Department of Public Safety,~~ and a form consenting to the check of the criminal record
19 and to the use of fingerprints and other identifying information required by the State or
20 National Repositories signed by the individual to be checked. The fingerprints of any individual
21 to be checked shall be forwarded to the State Bureau of Investigation for a search of the State's
22 criminal history record file, and the State Bureau of Investigation shall forward a set of
23 fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

24 ...

25 (h) The ~~Department of Justice~~ Department of Public Safety shall perform the State and
26 national criminal history checks on prospective adoptive parents seeking to adopt a minor in the
27 custody or placement responsibility of a county department of social services and all
28 individuals 18 years of age or older who reside in the prospective adoptive home and shall
29 charge the Department of Health and Human Services a reasonable fee only for conducting the
30 checks of the national criminal history records authorized by this section. The Division of
31 Social Services, Department of Health and Human Services, shall bear the costs of
32 implementing this section."

33 **SECTION 17.6.(ii)** G.S. 74F-6(16) reads as rewritten:

34 "(16) Request that the Department of Justice conduct criminal history record
35 checks of applicants for licensure and apprenticeships pursuant to
36 G.S. 114-19.15. G.S. 143B-937."

37 **SECTION 17.6.(jj)** G.S. 90-113.33(10) reads as rewritten:

38 "(10) Request that the Department of Justice conduct criminal history record
39 checks of applicants for registration, certification, or licensure pursuant to
40 G.S. 114-19.11A. G.S. 143B-932."

41 **SECTION 17.6.(kk)** G.S. 90-171.23(b)(19) reads as rewritten:

42 "(19) Request that the Department of Justice conduct criminal history record
43 checks of applicants for licensure pursuant to
44 G.S. 114-19.11. G.S. 143B-931."

45 **SECTION 17.6.(ll)** G.S. 90-270.63(b) reads as rewritten:

46 "(b) The Board may request that an applicant for licensure, an applicant seeking
47 reinstatement of a license, or a licensee under investigation by the Board for alleged criminal
48 offenses in violation of this Article consent to a criminal history record check. Refusal to
49 consent to a criminal history record check may constitute grounds for the Board to deny
50 licensure to an applicant, deny reinstatement of a license to an applicant, or revoke the license
51 of a licensee. The Board shall ensure that the State and national criminal history of an applicant

1 is checked. The Board shall be responsible for providing to the North Carolina Department of
2 Justice the fingerprints of the applicant or licensee to be checked, a form signed by the
3 applicant or licensee consenting to the criminal history record check and the use of fingerprints
4 and other identifying information required by the State or National Repositories of Criminal
5 Histories, and any additional information required by the Department of Justice in accordance
6 with ~~G.S. 114-19.27~~. G.S. 143B-949. The Board shall keep all information obtained pursuant to
7 this section confidential. The Board shall collect any fees required by the Department of Justice
8 and shall remit the fees to the Department of Justice for expenses associated with conducting
9 the criminal history record check."

10 **SECTION 17.6.(mm)** G.S. 90-345(b) reads as rewritten:

11 "(b) The Board may request that an applicant for licensure, an applicant seeking
12 reinstatement of a license, or a licensee under investigation by the Board for alleged criminal
13 offenses in violation of this Article consent to a criminal history record check. Refusal to
14 consent to a criminal history record check may constitute grounds for the Board to deny
15 licensure to an applicant, deny reinstatement of a license to an applicant, or revoke the license
16 of a licensee. The Board shall ensure that the State and national criminal history of an applicant
17 is checked. The Board shall be responsible for providing to the North Carolina Department of
18 Justice the fingerprints of the applicant or licensee to be checked, a form signed by the
19 applicant or licensee consenting to the criminal record check and the use of fingerprints and
20 other identifying information required by the State or National Repositories of Criminal
21 Histories, and any additional information required by the Department of Justice in accordance
22 with ~~G.S. 114-19.26~~. G.S. 143B-948. The Board shall keep all information obtained pursuant to
23 this section confidential. The Board shall collect any fees required by the Department of Justice
24 and shall remit the fees to the Department of Justice for expenses associated with conducting
25 the criminal history record check."

26 **SECTION 17.6.(nn)** G.S. 93E-2-11(b) reads as rewritten:

27 "(b) The Board may require that an applicant for registration as an appraisal management
28 company or a registrant consent to a criminal history record check. Refusal to consent to a
29 criminal history record check may constitute grounds for the Board to deny registration to an
30 applicant or registrant. The Board shall ensure that the State and national criminal history of an
31 applicant or registrant is checked. The Board shall be responsible for providing to the North
32 Carolina Department of Justice the fingerprints of the applicant or registrant to be checked, a
33 form signed by the applicant or registrant consenting to the criminal record check and the use
34 of fingerprints and other identifying information required by the State or National Repositories
35 of Criminal Histories, and any additional information required by the Department of Justice in
36 accordance with ~~G.S. 114-19.30~~. G.S. 143B-952. The Board shall keep all information obtained
37 pursuant to this section confidential. The Board shall collect any fees required by the
38 Department of Justice and shall remit the fees to the Department of Justice for expenses
39 associated with conducting the criminal history record check."

40 **SECTION 17.6.(oo)** G.S. 101-5 reads as rewritten:

41 **"§ 101-5. Name change application requirements; grounds for clerk to order or deny**
42 **name change; certificate and record.**

43 ...

44 (e) The clerk shall forward the order granting the name change to:

- 45 (1) The State Registrar of Vital Statistics on a form provided by the Registrar. If
46 the applicant was born in North Carolina, the State Registrar shall note the
47 change of name of the individual or individuals specified in the order on the
48 birth certificate of that individual or those individuals and shall notify the
49 register of deeds in the county of birth. If the applicant was born in another
50 state of the United States, the State Registrar shall forward the notice of
51 change of name to the registration office of the state of birth.

1 (2) ~~The Division of Criminal Information at the State Bureau of~~
2 ~~Investigation, Department of Public Safety,~~ which shall update its records to
3 show the name change.
4 ...

5 (g) Upon information obtained by the clerk of fraud or material misrepresentation in the
6 application for a name change, the clerk on his or her own motion may set aside the order
7 granting the name change after notice to the applicant and opportunity to be heard. If the clerk
8 sets aside the name change order, the clerk shall notify the State Registrar of Vital Statistics
9 and the ~~Division of Criminal Information, Department of Public Safety.~~"

10 **SECTION 17.6.(pp)** G.S. 110-90.2(g) reads as rewritten:

11 "(g) The child care provider shall pay the cost of the fingerprinting and the federal
12 criminal history record check in accordance with ~~G.S. 114-19.5~~. G.S. 143B-925. The
13 Department of Justice shall perform the State criminal history record check. The Department of
14 Health and Human Services shall pay for and conduct the county criminal history record check.
15 Child care providers who reside outside the State bear the cost of the county criminal history
16 record check and shall provide the county criminal history record check to the Division of
17 Child Development as required by this section."

18 **SECTION 17.6.(qq)** G.S. 113-172(a) reads as rewritten:

19 "(a) The Secretary shall designate license agents for the Department. At least one license
20 agent shall be designated for each county that contains or borders on coastal fishing waters. The
21 Secretary may designate additional license agents in any county if the Secretary determines that
22 additional agents are needed to provide efficient service to the public. The Division and license
23 agents designated by the Secretary under this section shall issue licenses authorized under this
24 Article in accordance with this Article and the rules of the Commission. The Secretary may
25 require license agents to enter into a contract that provides for their duties and compensation,
26 post a bond, and submit to reasonable inspections and audits. If a license agent violates any
27 provision of this Article, the rules of the Commission, or the terms of the contract, the
28 Secretary may initiate proceedings for the forfeiture of the license agent's bond and may
29 summarily suspend, revoke, or refuse to renew a designation as a license agent and may
30 impound or require the return of all licenses, moneys, record books, reports, license forms and
31 other documents, ledgers, and materials pertinent or apparently pertinent to the license agency.
32 The Secretary shall report evidence or misuse of State property, including license fees, by a
33 license agent to the State Bureau of Investigation as provided by
34 ~~G.S. 114-15.1~~. G.S. 143B-912."

35 **SECTION 17.6.(rr)** G.S. 114-2.7, as recodified by subsection (i) of this section,
36 reads as rewritten:

37 "**§ 143B-901. Reporting system and database on certain domestic-violence-related**
38 **homicides; reports by law enforcement agencies required; annual report to the**
39 **General Assembly.**

40 The ~~Attorney General's Office, Department of Public Safety,~~ in consultation with the North
41 Carolina Council for Women/Domestic Violence Commission, the North Carolina Sheriffs'
42 Association, and the North Carolina Association of Chiefs of Police, shall develop a reporting
43 system and database that reflects the number of homicides in the State where the offender and
44 the victim had a personal relationship, as defined by G.S. 50B-1(b). The information in the
45 database shall also include the type of personal relationship that existed between the offender
46 and the victim, whether the victim had obtained an order pursuant to G.S. 50B-3, and whether
47 there was a pending charge for which the offender was on pretrial release pursuant to
48 G.S. 15A-534.1. All State and local law enforcement agencies shall report information to the
49 ~~Attorney General's Office~~ Department of Public Safety upon making a determination that a
50 homicide meets the reporting system's criteria. The report shall be made in the format adopted
51 by the ~~Attorney General's Office, Department of Public Safety.~~ The ~~Attorney General's Office~~

1 ~~Department of Public Safety shall report to the Joint Legislative Committee on Domestic~~
2 ~~Violence, Joint Legislative Oversight Committee on Justice and Public Safety, no later than~~
3 February 1 of each year, with the data collected for the previous calendar year."

4 **SECTION 17.6.(ss)** Article 1 of Chapter 114 of the General Statutes is amended by
5 adding a new section to read:

6 "**§ 114-8.6. Power of arrest.**

7 Law enforcement officers of the Attorney General's office who are engaged in the
8 investigation of public corruption are given the same power of arrest as is now vested in the
9 sheriffs of the several counties, and their jurisdiction shall be statewide. Such law enforcement
10 officers shall, at the request of the Governor, give assistance to sheriffs, police officers, district
11 attorneys, and judges when called upon by them and so directed."

12 **SECTION 17.6.(tt)** G.S. 114-10, as recodified by subsection (j) of this section,
13 reads as rewritten:

14 "**§ 143B-902. ~~Division of Criminal Information.~~ Powers and duties of the Department of**
15 **Public Safety with respect to criminal information.**

16 ~~The Attorney General shall set up in the Department of Justice a division to be designated~~
17 ~~as the Division of Criminal Information. There shall be assigned to this Division by the~~
18 ~~Attorney General duties as follows:~~In addition to its other duties, it shall be the duty of the
19 Department of Public Safety to do all of the following:

20 ...

- 21 (2) To collect, correlate, and maintain access to information that will assist in
22 the performance of duties required in the administration of criminal justice
23 throughout the State. This information may include, but is not limited to,
24 motor vehicle registration, drivers' licenses, wanted and missing persons,
25 stolen property, warrants, stolen vehicles, firearms registration, sexual
26 offender registration as provided under Article 27A of Chapter 14 of the
27 General Statutes, drugs, drug users and parole and probation histories. In
28 performing this function, the ~~Division~~Department may arrange to use
29 information available in other agencies and units of State, local and federal
30 government, but shall provide security measures to insure that such
31 information shall be made available only to those whose duties, relating to
32 the administration of justice, require such information.

33 ...

- 34 (5) ~~To perform such other duties as may be from time to time prescribed by the~~
35 ~~Attorney General.~~

- 36 (6) To promulgate rules and regulations for the administration of this Article."

37 **SECTION 17.6.(uu)** G.S. 114-10.01, as recodified by subsection (j) of this section,
38 reads as rewritten:

39 "**§ 143B-903. Collection of traffic law enforcement statistics.**

40 (a) ~~In addition to the duties set forth in G.S. 114-10, the Division of Criminal~~
41 ~~Information~~In addition to its other duties, the Department of Public Safety shall collect,
42 correlate, and maintain the following information regarding traffic law enforcement by law
43 enforcement officers:

44 ...

- 45 (b) For purposes of this section, "law enforcement officer" means any of the following:

- 46 (1) All State law enforcement officers.
47 (2) Law enforcement officers employed by county sheriffs or county police
48 departments.
49 (3) Law enforcement officers employed by police departments in municipalities
50 with a population of 10,000 or more persons.

1 (4) Law enforcement officers employed by police departments in municipalities
2 employing five or more full-time sworn officers for every 1,000 in
3 population, as calculated by the ~~Division-Department~~ for the calendar year in
4 which the stop was made.

5 ...
6 (d) Each law enforcement officer making a stop covered by subdivision (1) of
7 subsection (a) of this section shall be assigned an anonymous identification number by the
8 officer's employing agency. The anonymous identifying number shall be public record and
9 shall be reported to the ~~Division-Department~~ to be correlated along with the data collected
10 under subsection (a) of this section. The correlation between the identification numbers and the
11 names of the officers shall not be a public record, and shall not be disclosed by the agency
12 except when required by order of a court of competent jurisdiction to resolve a claim or defense
13 properly before the court.

14 (d1) Any agency subject to the requirements of this section shall submit information
15 collected under subsection (a) of this section to the ~~Division-Department~~ within 60 days of the
16 close of each month. Any agency that does not submit the information as required by this
17 subsection shall be ineligible to receive any law enforcement grants available by or through the
18 State until the information which is reasonably available is submitted.

19 (e) The ~~Division-Department~~ shall publish and distribute by December 1 of each year a
20 list indicating the law enforcement officers that will be subject to the provisions of this section
21 during the calendar year commencing on the following January 1."

22 **SECTION 17.6.(vv)** G.S. 114-10.02, as recodified by subsection (j) of this section,
23 reads as rewritten:

24 **"§ 143B-904. Collection of statistics on the use of deadly force by law enforcement**
25 **officers.**

26 (a) In addition to ~~the duties set forth in G.S. 114-10, the Division of Criminal~~
27 ~~Information~~ its other duties, the Department of Public Safety shall collect, maintain, and
28 annually publish the number of deaths, by law enforcement agency, resulting from the use of
29 deadly force by law enforcement officers in the course and scope of their official duties.

30 (b) For purposes of this section, "law enforcement officer" means sworn law
31 enforcement officers with the power of arrest, both State and local."

32 **SECTION 17.6.(ww)** G.S. 114-10.1, as recodified by subsection (j) of this section,
33 reads as rewritten:

34 **"§ 143B-905. ~~Police-Criminal Information Network.~~**

35 (a) The ~~Division of Criminal Information~~ Department of Public Safety is authorized to
36 establish, devise, maintain and operate a system for receiving and disseminating to participating
37 agencies information collected, maintained and correlated under authority of ~~G.S. 114-10 of~~
38 ~~this Article-G.S. 143B-902.~~ The system shall be known as the ~~Division of Criminal Information~~
39 Network.

40 (b) The ~~Division of Criminal Information~~ Department of Public Safety is authorized to
41 cooperate with the Division of Motor Vehicles, Department of Administration, ~~the Department~~
42 ~~of Public Safety,~~ and other State, local and federal agencies and organizations in carrying out
43 the purpose and intent of this section, and to utilize, in cooperation with other State agencies
44 and to the extent as may be practical, computers and related equipment as may be operated by
45 other State agencies.

46 (c) The ~~Division of Criminal Information~~ Department of Public Safety, after
47 consultation with participating agencies, shall adopt rules and regulations governing the
48 organization and administration of the ~~Division of Criminal Information Network,~~ including
49 rules and regulations governing the types of information relating to the administration of
50 criminal justice to be entered into the system, and who shall have access to such information.
51 The rules and regulations governing access to the ~~Division of Criminal Information Network~~

1 shall not prohibit an attorney who has entered a criminal proceeding in accordance with
2 G.S. 15A-141 from obtaining information relevant to that criminal proceeding. The rules and
3 regulations governing access to the ~~Division of Criminal Information Network~~ shall not
4 prohibit an attorney who represents a person in adjudicatory or dispositional proceedings for an
5 infraction from obtaining the person's driving record or criminal history.

6 (d) ~~The Division of Criminal Information may impose an initial set up fee of two~~
7 ~~thousand six hundred fifty dollars (\$2,650) for agencies to participate in the Division of~~
8 ~~Criminal Information Network. This one-time fee shall be used to offset the cost of the router~~
9 ~~and data circuit needed to access the Network.~~

10 The ~~Division of Criminal Information Department~~ may also impose monthly fees on
11 participating agencies. The monthly fees collected under this subsection shall be used to offset
12 the cost of operating and maintaining the ~~Police-Criminal Information Network~~Network.

13 (1) The ~~Division of Criminal Information Department~~ may impose a monthly
14 circuit fee on agencies that access the ~~Division of Criminal Information~~
15 ~~Network through a circuit maintained and operated by the Department of~~
16 ~~Justice Department of Public Safety~~. The amount of the monthly fee is three
17 hundred dollars (\$300.00) plus an additional fee amount for each device
18 linked to the Network. The additional fee amount varies depending upon the
19 type of device. For a desktop device after the first seven desktop devices, the
20 additional monthly fee is twenty-five dollars (\$25.00) per device. For a
21 mobile device, the additional monthly fee is twelve dollars (\$12.00) per
22 device.

23 (2) The ~~Division of Criminal Information Department~~ may impose a monthly
24 device fee on agencies that access the ~~Police-Criminal Information Network~~
25 through some other approved means. The amount of the monthly device fee
26 varies depending upon the type of device. For a desktop device, the monthly
27 fee is twenty-five dollars (\$25.00) per device. For a mobile device, the fee is
28 twelve dollars (\$12.00) per device."

29 **SECTION 17.6.(xx)** G.S. 114-11.6 reads as rewritten:

30 **"§ 114-11.6. Division established; duties.**

31 There is hereby established in the office of the Attorney General of North Carolina, a
32 Special Prosecution Division. The attorneys assigned to this Division shall be available to
33 prosecute or assist in the prosecution of criminal cases when requested to do so by a district
34 attorney and the Attorney General approves. In addition, these attorneys assigned to this
35 Division shall ~~serve as legal advisers to the State Bureau of Investigation and the Police~~
36 ~~Information Network and perform any other duties assigned to them by the Attorney General."~~

37 **SECTION 17.6.(yy)** The title of Article 4 of Chapter 114 of the General Statutes
38 and of Part 1 of that Article reads as rewritten:

39 ~~"State Bureau of Investigation, North Carolina State Crime Laboratory.~~

40 Part 1. General Powers and ~~Duties of the State Bureau of Investigation.~~Duties."

41 **SECTION 17.6.(zz)** G.S. 114-12, as recodified by subsection (l) of this section,
42 reads as rewritten:

43 **"§ 143B-907. Bureau of Investigation created; powers and duties.**

44 In order to secure a more effective administration of the criminal laws of the State, to
45 prevent crime, and to procure the speedy apprehension of criminals, the ~~Attorney~~
46 ~~General~~Secretary of Public Safety shall set up in the Division of Law Enforcement of the
47 Department of Justice-Public Safety a division-section to be designated as the State Bureau of
48 Investigation. The ~~Division-Section~~ shall have charge of and administer the agencies and
49 activities herein set up for the identification of criminals, for their apprehension, ~~for the~~
50 ~~scientific analysis of evidence of crime,~~ and investigation and preparation of evidence to be
51 used in criminal courts; and the said Bureau shall have charge of investigation of criminal

1 matters herein especially mentioned, and of such other crimes and criminal procedure as the
2 Governor may direct."

3 **SECTION 17.6.(aaa)** G.S. 114-14, as recodified by subsection (l) of this section,
4 reads as rewritten:

5 "**§ 143B-909. General powers and duties of ~~Director and assistants~~law enforcement**
6 **officers of the State Bureau of Investigation.**

7 ~~The Director of the Bureau and his assistants~~Sworn law enforcement officers of the State
8 Bureau of Investigation are given the same power of arrest as is now vested in the sheriffs of
9 the several counties, and their jurisdiction shall be statewide. ~~The Director of the Bureau and~~
10 ~~his assistants~~ Sworn law enforcement officers of the Bureau shall, at the request of the
11 Governor, give assistance to sheriffs, police officers, district attorneys, and judges when called
12 upon by them and so directed. ~~They shall also give assistance, when requested, to the~~
13 ~~Department of Public Safety in the investigation of cases pending before the parole office and~~
14 ~~of complaints lodged against parolees, when so directed by the Governor."~~

15 **SECTION 17.6.(bbb)** G.S. 114-15, as recodified by subsection (l) of this section,
16 reads as rewritten:

17 "**§ 143B-911. Investigations of lynchings, election frauds, etc.; services subject to call of**
18 **Governor; witness fees and mileage for ~~Director and assistants~~employees.**

19 (a) The Bureau shall, ~~through its Director and~~ upon request of the Governor, investigate
20 and prepare evidence in the event of any lynching or mob violence in the State; shall
21 investigate all cases arising from frauds in connection with elections when requested to do so
22 by the Board of Elections, and when so directed by the Governor. Such investigation, however,
23 shall in nowise interfere with the power of the Attorney General to make such investigation as
24 the Attorney General is authorized to make under the laws of the State. The Bureau is
25 authorized further, at the request of the Governor, to investigate cases of frauds arising under
26 the Social Security Laws of the State, of violations of the gaming laws, and lottery laws, and
27 matters of similar kind when called upon by the Governor so to do. In all such cases it shall be
28 the duty of the Department to keep such records as may be necessary and to prepare evidence
29 in the cases investigated, for the use of enforcement officers and for the trial of causes. The
30 services of ~~the Director of the Bureau, and of the Director's assistants,~~employees of the Bureau
31 may be required by the Governor in connection with the investigation of any crime committed
32 anywhere in the State when called upon by the enforcement officers of the State, and when, in
33 the judgment of the Governor, such services may be rendered with advantage to the
34 enforcement of the criminal law. The State Bureau of Investigation is hereby authorized to
35 investigate without request the attempted arson of, or arson of, damage of, theft from, or theft
36 of, or misuse of, any State-owned personal property, buildings, or other real property or any
37 assault upon or threats against any legislative officer named in G.S. 147-2(1), (2), or (3), any
38 executive officer named in G.S. 147-3(c), or any court officer as defined in G.S. 14-16.10(1).
39 The Bureau also is authorized at the request of the Governor to conduct a background
40 investigation on a person that the Governor plans to nominate for a position that must be
41 confirmed by the General Assembly, the Senate, or the House of Representatives. The
42 background investigation of the proposed nominee shall be limited to an investigation of the
43 person's criminal record, educational background, employment record, records concerning the
44 listing and payment of taxes, and credit record, and to a requirement that the person provide the
45 information contained in the statements of economic interest required to be filed by persons
46 subject to Chapter 138A of the General Statutes. The Governor must give the person being
47 investigated written notice that the Governor intends to request a background investigation at
48 least 10 days prior to the date that the Governor requests the State Bureau of Investigation to
49 conduct the background investigation. The written notice shall be sent by regular mail, and
50 there is created a rebuttable presumption that the person received the notice if the Governor has
51 a copy of the notice.

1 ...
2 (c) All records and evidence collected and compiled by ~~the Director of the Bureau and~~
3 ~~his assistants~~ employees of the Bureau shall, upon request, be made available to the district
4 attorney of any district if the same concerns persons or investigations in his district.

5 (d) In all cases where the cost is assessed against the defendant and paid by him, there
6 shall be assessed in the bill of cost, mileage and witness fees to ~~the Director and any of his~~
7 ~~assistants~~ any employees of the Bureau who are witnesses in cases arising in courts of this
8 State. The fees so assessed, charged and collected shall be forwarded by the clerks of the court
9 to the Treasurer of the State of North Carolina, and there credited to the Bureau of
10 Identification and Investigation Fund."

11 **SECTION 17.6.(ccc)** G.S. 114-16 reads as rewritten:

12 "**§ 114-16. Laboratory and clinical facilities; employment of criminologists; services of**
13 **scientists, etc., employed by State; radio system.**

14 In the ~~said Bureau~~ Department of Justice there shall be provided laboratory facilities for the
15 analysis of evidences of crime, including the determination of presence, quantity and character
16 of poisons, the character of bloodstains, microscopic and other examination material associated
17 with the commission of crime, examination and analysis of projectiles of ballistic imprints and
18 records which might lead to the determination or identification of criminals, the examination
19 and identification of fingerprints, and other evidence leading to the identification,
20 apprehension, or conviction of criminals. A sufficient number of persons skilled in such matters
21 shall be employed to render a reasonable service to the public and the criminal justice system in
22 the discharge of their duties. ~~In the personnel of the Bureau shall be included a sufficient~~
23 ~~number of persons of training and skill in the investigation of crime and in the preparation of~~
24 ~~evidence as to be of service to local enforcement officers, under the direction of the Governor,~~
25 ~~in criminal matters of major importance.~~

26 The laboratory and clinical facilities of the institutions of the State, both educational and
27 departmental, shall be made available to the ~~Bureau~~ Department of Justice and scientists and
28 doctors now working for the State through its institutions and departments may be called upon
29 by the Governor to aid the ~~Bureau~~ State Crime Laboratory in the evaluation, preparation, and
30 preservation of evidence in which scientific methods are employed, and a reasonable fee may
31 be allowed by the Governor for such service.

32 The State radio system shall be made available to the ~~Bureau~~ State Crime Laboratory for
33 use in its work."

34 **SECTION 17.6.(ddd)** G.S. 114-19.1(d), as recodified by subsection (m) of this
35 section, reads as rewritten:

36 "(d) Nothing in this section shall be construed as enlarging any right to receive any
37 record of the State Bureau of Investigation. Such rights are and shall be controlled by
38 ~~G.S. 114-15, G.S. 114-19, G.S. G.S. 143B-911, 143B-917, 120-19.4A,~~ and other applicable
39 statutes."

40 **SECTION 17.6.(eee)** G.S. 114-19.6(b), as recodified by subsection (m) of this
41 section, reads as rewritten:

42 "(b) When requested by the Department of Health and Human Services or the Division
43 of Juvenile Justice of the Department of Public Safety, the North Carolina Department of
44 Justice may provide to the requesting department or division a covered person's criminal
45 history from the State Repository of Criminal Histories. Such requests shall not be due to a
46 person's age, sex, race, color, national origin, religion, creed, political affiliation, or
47 handicapping condition as defined by G.S. 168A-3. For requests for a State criminal history
48 record check only, the requesting department or division shall provide to the Department of
49 Justice a form consenting to the check signed by the covered person to be checked and any
50 additional information required by the Department of Justice. National criminal record checks
51 are authorized for covered applicants who have not resided in the State of North Carolina

1 during the past five years. For national checks the Department of Health and Human Services
2 or the Division of Juvenile Justice of the Department of Public Safety shall provide to the North
3 Carolina Department of Justice the fingerprints of the covered person to be checked, any
4 additional information required by the Department of Justice, and a form signed by the covered
5 person to be checked consenting to the check of the criminal record and to the use of
6 fingerprints and other identifying information required by the State or National Repositories.
7 The fingerprints of the individual shall be forwarded to the State Bureau of Investigation for a
8 search of the State criminal history record file and the State Bureau of Investigation shall
9 forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal
10 history record check. The Department of Health and Human Services and the Division of
11 Juvenile Justice of the Department of Public Safety shall keep all information pursuant to this
12 section confidential. The Department of Justice shall charge a reasonable fee for conducting the
13 checks of the criminal history records authorized by this section."

14 **SECTION 17.6.(fff)** G.S. 114-20, as recodified by subsection (n) of this section,
15 reads as rewritten:

16 **"§ 143B-975. Authority to provide protection to certain public officials.**

17 The North Carolina State Bureau of Investigation is authorized to provide protection to
18 public officials who request it, and who, in the discretion of the ~~Director of the Bureau with the~~
19 ~~approval of the Attorney General,~~Secretary of Public Safety, demonstrate a need for such
20 protection. The bureau shall not provide protection for any individual other than the Governor
21 for a period greater than 30 days without review and reapproval by the ~~Attorney~~
22 ~~General,~~Secretary of Public Safety. This review and reapproval shall be required at the end of
23 each 30-day period."

24 **SECTION 17.6.(ggg)** G.S. 114-20.1, as recodified by subsection (n) of this
25 section, reads as rewritten:

26 **"§ 143B-976. Authority to designate areas for protection of public officials.**

27 (a) The ~~Attorney General~~Secretary of Public Safety is authorized to designate buildings
28 and grounds which constitute temporary residences or temporary offices of any public official
29 being protected under authority of G.S. 114-20, or any area that will be visited by any such
30 official, a public building or facility during the time of such use.

31 (b) The ~~Attorney General or the Director of the State Bureau of Investigation~~Secretary
32 of Public Safety may, with the consent of the official to be protected, make rules governing
33 ingress to or egress from such buildings, grounds or areas designated under this section."

34 **SECTION 17.6.(hhh)** G.S. 120-226(c) reads as rewritten:

35 "(c) Membership. – The Commission shall consist of 22 members to be appointed as
36 follows:

37 ...

38 (12) ~~The Director of the State Bureau of Investigation~~The Secretary of Public
39 Safety or the ~~Director's~~Secretary's designee.

40"

41 **SECTION 17.6.(iii)** G.S. 122C-80 reads as rewritten:

42 **"§ 122C-80. Criminal history record check required for certain applicants for**
43 **employment.**

44 ...

45 (b) Requirement. – An offer of employment by a provider licensed under this Chapter
46 to an applicant to fill a position that does not require the applicant to have an occupational
47 license is conditioned on consent to a State and national criminal history record check of the
48 applicant. If the applicant has been a resident of this State for less than five years, then the offer
49 of employment is conditioned on consent to a State and national criminal history record check
50 of the applicant. The national criminal history record check shall include a check of the
51 applicant's fingerprints. If the applicant has been a resident of this State for five years or more,

1 then the offer is conditioned on consent to a State criminal history record check of the
2 applicant. A provider shall not employ an applicant who refuses to consent to a criminal history
3 record check required by this section. Except as otherwise provided in this subsection, within
4 five business days of making the conditional offer of employment, a provider shall submit a
5 request to the ~~Department of Justice~~Department of Public Safety under
6 ~~G.S. 114-19.10~~G.S. 143B-930 to conduct a criminal history record check required by this
7 section or shall submit a request to a private entity to conduct a State criminal history record
8 check required by this section. Notwithstanding ~~G.S. 114-19.10~~G.S. 143B-930, the
9 ~~Department of Justice~~Department of Public Safety shall return the results of national criminal
10 history record checks for employment positions not covered by Public Law 105-277 to the
11 Department of Health and Human Services, Criminal Records Check Unit. Within five business
12 days of receipt of the national criminal history of the person, the Department of Health and
13 Human Services, Criminal Records Check Unit, shall notify the provider as to whether the
14 information received may affect the employability of the applicant. In no case shall the results
15 of the national criminal history record check be shared with the provider. Providers shall make
16 available upon request verification that a criminal history check has been completed on any
17 staff covered by this section. A county that has adopted an appropriate local ordinance and has
18 access to the Division of Criminal Information data bank may conduct on behalf of a provider a
19 State criminal history record check required by this section without the provider having to
20 submit a request to the Department of Justice. In such a case, the county shall commence with
21 the State criminal history record check required by this section within five business days of the
22 conditional offer of employment by the provider. All criminal history information received by
23 the provider is confidential and may not be disclosed, except to the applicant as provided in
24 subsection (c) of this section. For purposes of this subsection, the term "private entity" means a
25 business regularly engaged in conducting criminal history record checks utilizing public
26 records obtained from a State agency.

27 ...

28 (g) Conditional Employment. – A provider may employ an applicant conditionally prior
29 to obtaining the results of a criminal history record check regarding the applicant if both of the
30 following requirements are met:

- 31 (1) The provider shall not employ an applicant prior to obtaining the applicant's
32 consent for criminal history record check as required in subsection (b) of this
33 section or the completed fingerprint cards as required in
34 ~~G.S. 114-19.10~~G.S. 143B-930.
- 35 (2) The provider shall submit the request for a criminal history record check not
36 later than five business days after the individual begins conditional
37 employment."

38 **SECTION 17.6.(jjj)** G.S. 122C-205(c) reads as rewritten:

39 "(c) Upon receipt of notice of an escape or breach of a condition of release as described
40 in subsections (a) and (b) of this section, an appropriate law enforcement officer shall take the
41 client into custody and have the client returned to the 24-hour facility from which the client has
42 escaped or has been conditionally released. Transportation of the client back to the 24-hour
43 facility shall be provided in the same manner as described in G.S. 122C-251 and
44 G.S. 122C-408(b). Law enforcement agencies who are notified of a client's escape or breach of
45 conditional release shall be notified of the client's return by the responsible 24-hour facility.
46 Under the circumstances described in this section, the initial notification by the 24-hour facility
47 of the client's escape or breach of conditional release shall be given by telephone
48 communication to the appropriate law enforcement agency or agencies and, if available and
49 appropriate, by ~~Division of Criminal Information (DCI)~~Department of Public Safety message to
50 any law enforcement agency in or out of state and by entry into the National Crime Information
51 Center (NCIC) telecommunications system. As soon as reasonably possible following

1 notification, written authorization to take the client into custody shall also be issued by the
2 24-hour facility. Under this section, law enforcement officers shall have the authority to take a
3 client into custody upon receipt of the telephone notification or ~~Division of Criminal~~
4 ~~Information~~ Department of Public Safety message prior to receiving written authorization. The
5 notification of a law enforcement agency does not, in and of itself, render this information
6 public information within the purview of Chapter 132 of the General Statutes. However, the
7 responsible law enforcement agency shall determine the extent of disclosure of personal
8 identifying and background information reasonably necessary, under the circumstances, in
9 order to assure the expeditious return of a client to the 24-hour facility involved and to protect
10 the general public and is authorized to make such disclosure. The responsible law enforcement
11 agency may also place any appropriate message or entry into either the ~~Division of Criminal~~
12 ~~Information System~~ Department of Public Safety's Criminal Information System or National
13 Crime Information System, or both, as appropriate."

14 **SECTION 17.6.(kkk)** G.S. 131D-10.3A reads as rewritten:

15 **"§ 131D-10.3A. Mandatory criminal checks.**

16 ...
17 (d) The ~~Department of Justice~~ Department of Public Safety shall provide to the
18 Department the criminal history of the individuals specified in subsection (a) of this section
19 obtained from the State and National Repositories of Criminal Histories as requested by the
20 Department. The Department shall provide to the ~~Department of Justice~~ Department of Public
21 Safety, along with the request, the fingerprints of the individual to be checked, any additional
22 information required by the ~~Department of Justice~~ Department of Public Safety, and a form
23 consenting to the check of the criminal record and to the use of fingerprints and other
24 identifying information required by the State or National Repositories signed by the individual
25 to be checked. The fingerprints of the individual to be checked shall be forwarded to the State
26 Bureau of Investigation for a search of the State's criminal history record file, and the State
27 Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of
28 Investigation for a national criminal history record check.

29 ...
30 (i) The ~~Department of Justice~~ Department of Public Safety shall perform the State and
31 national criminal history checks on individuals required by this section and shall charge the
32 Department a reasonable fee only for conducting the checks of the national criminal history
33 records authorized by this section. The Division of Social Services, Department of Health and
34 Human Services, shall bear the costs of implementing this section."

35 **SECTION 17.6.(lll)** G.S. 131D-40 reads as rewritten:

36 **"§ 131D-40. Criminal history record checks required for certain applicants for**
37 **employment.**

38 (a) Requirement; Adult Care Home. – An offer of employment by an adult care home
39 licensed under this Chapter to an applicant to fill a position that does not require the applicant
40 to have an occupational license is conditioned on consent to a criminal history record check of
41 the applicant. If the applicant has been a resident of this State for less than five years, then the
42 offer of employment is conditioned on consent to a State and national criminal history record
43 check of the applicant. The national criminal history record check shall include a check of the
44 applicant's fingerprints. If the applicant has been a resident of this State for five years or more,
45 then the offer is conditioned on consent to a State criminal history record check of the
46 applicant. An adult care home shall not employ an applicant who refuses to consent to a
47 criminal history record check required by this section. Within five business days of making the
48 conditional offer of employment, an adult care home shall submit a request to the ~~Department~~
49 ~~of Justice~~ Department of Public Safety under ~~G.S. 114-19.10~~ G.S. 143B-930 to conduct a State
50 or national criminal history record check required by this section, or shall submit a request to a
51 private entity to conduct a State criminal history record check required by this section.

1 Notwithstanding ~~G.S. 114-19.10~~G.S. 143B-930, the ~~Department of Justice~~ Department of
2 Public Safety shall return the results of national criminal history record checks for employment
3 positions not covered by Public Law 105-277 to the Department of Health and Human
4 Services, Criminal Records Check Unit. Within five business days of receipt of the national
5 criminal history of the person, the Department of Health and Human Services, Criminal
6 Records Check Unit, shall notify the adult care home as to whether the information received
7 may affect the employability of the applicant. In no case shall the results of the national
8 criminal history record check be shared with the adult care home. Adult care homes shall make
9 available upon request verification that a criminal history check has been completed on any
10 staff covered by this section. All criminal history information received by the home is
11 confidential and may not be disclosed, except to the applicant as provided in subsection (b) of
12 this section.

13 (a1) Requirement; Contract Agency of Adult Care Home. – An offer of employment by a
14 contract agency of an adult care home licensed under this Chapter to an applicant to fill a
15 position that does not require the applicant to have an occupational license is conditioned upon
16 consent to a criminal history record check of the applicant. If the applicant has been a resident
17 of this State for less than five years, then the offer of employment is conditioned on consent to
18 a State and national criminal history record check of the applicant. The national criminal
19 history record check shall include a check of the applicant's fingerprints. If the applicant has
20 been a resident of this State for five years or more, then the offer is conditioned on consent to a
21 State criminal history record check of the applicant. A contract agency of an adult care home
22 shall not employ an applicant who refuses to consent to a criminal history record check
23 required by this section. Within five business days of making the conditional offer of
24 employment, a contract agency of an adult care home shall submit a request to the ~~Department~~
25 Department of Public Safety under ~~G.S. 114-19.10~~G.S. 143B-930 to conduct a State
26 or national criminal history record check required by this section, or shall submit a request to a
27 private entity to conduct a State criminal history record check required by this section.
28 Notwithstanding ~~G.S. 114-19.10~~G.S. 143B-930, the ~~Department of Justice~~ Department of
29 Public Safety shall return the results of national criminal history record checks for employment
30 positions not covered by Public Law 105-277 to the Department of Health and Human
31 Services, Criminal Records Check Unit. Within five business days of receipt of the national
32 criminal history of the person, the Department of Health and Human Services, Criminal
33 Records Check Unit, shall notify the contract agency of the adult care home as to whether the
34 information received may affect the employability of the applicant. In no case shall the results
35 of the national criminal history record check be shared with the contract agency of the adult
36 care home. Contract agencies of adult care homes shall make available upon request
37 verification that a criminal history check has been completed on any staff covered by this
38 section. All criminal history information received by the contract agency is confidential and
39 may not be disclosed, except to the applicant as provided by subsection (b) of this section.

40 ...

41 (f) Conditional Employment. – An adult care home may employ an applicant
42 conditionally prior to obtaining the results of a criminal history record check regarding the
43 applicant if both of the following requirements are met:

- 44 (1) The adult care home shall not employ an applicant prior to obtaining the
45 applicant's consent for a criminal history record check as required in
46 subsection (a) of this section or the completed fingerprint cards as required
47 in ~~G.S. 114-19.10~~G.S. 143B-930.
- 48 (2) The adult care home shall submit the request for a criminal history record
49 check not later than five business days after the individual begins conditional
50 employment.

51"

1 **SECTION 17.6.(mmm)** G.S. 131E-159(g) reads as rewritten:

2 "(g) An individual who applies for EMS credentials, seeks to renew EMS credentials, or
3 holds EMS credentials is subject to a criminal background review by the Department. At the
4 request of the Department, the Emergency Medical Services Disciplinary Committee,
5 established by G.S. 143-519, shall review criminal background information and make a
6 recommendation regarding the eligibility of an individual to obtain initial EMS credentials,
7 renew EMS credentials, or maintain EMS credentials. The Department and the Emergency
8 Medical Services Disciplinary Committee shall keep all information obtained pursuant to this
9 subsection confidential. The Medical Care Commission shall adopt rules to implement the
10 provisions of this subsection, including rules to establish a reasonable fee to offset the actual
11 costs of criminal history information obtained pursuant to ~~G.S. 114-19-21~~G.S. 143B-943."

12 **SECTION 17.6.(nnn)** G.S. 131E-265 reads as rewritten:

13 "**§ 131E-265. Criminal history record checks required for certain applicants for
14 employment.**

15 (a) Requirement; Nursing Home or Home Care Agency. – An offer of employment by a
16 nursing home licensed under this Chapter to an applicant to fill a position that does not require
17 the applicant to have an occupational license is conditioned on consent to a criminal history
18 record check of the applicant. If the applicant has been a resident of this State for less than five
19 years, then the offer of employment is conditioned on consent to a State and national criminal
20 history record check of the applicant. The national criminal history record check shall include a
21 check of the applicant's fingerprints. If the applicant has been a resident of this State for five
22 years or more, then the offer is conditioned on consent to a State criminal history record check
23 of the applicant. An offer of employment by a home care agency licensed under this Chapter to
24 an applicant to fill a position that requires entering the patient's home is conditioned on consent
25 to a criminal history record check of the applicant. In addition, employment status change of a
26 current employee of a home care agency licensed under this Chapter from a position that does
27 not require entering the patient's home to a position that requires entering the patient's home
28 shall be conditioned on consent to a criminal history record check of that current employee. If
29 the applicant for employment or if the current employee who is changing employment status
30 has been a resident of this State for less than five years, then the offer of employment or change
31 in employment status is conditioned on consent to a State and national criminal history record
32 check. The national criminal history record check shall include a check of the applicant's or
33 current employee's fingerprints. If the applicant or current employee has been a resident of this
34 State for five years or more, then the offer is conditioned on consent to a State criminal history
35 record check of the applicant or current employee applying for a change in employment status.
36 A nursing home or a home care agency shall not employ an applicant who refuses to consent to
37 a criminal history record check required by this section. In addition, a home care agency shall
38 not change a current employee's employment status from a position that does not require
39 entering the patient's home to a position that requires entering the patient's home who refuses to
40 consent to a criminal history record check required by this section. Within five business days of
41 making the conditional offer of employment, a nursing home or home care agency shall submit
42 a request to the ~~Department of Justice~~Department of Public Safety under
43 ~~G.S. 114-19-10~~G.S. 143B-930 to conduct a State or national criminal history record check
44 required by this section, or shall submit a request to a private entity to conduct a State criminal
45 history record check required by this section. Notwithstanding ~~G.S. 114-19-10~~G.S. 143B-930,
46 the ~~Department of Justice~~Department of Public Safety shall return the results of national
47 criminal history record checks for employment positions not covered by Public Law 105-277 to
48 the Department of Health and Human Services, Criminal Records Check Unit. Within five
49 business days of receipt of the national criminal history of the person, the Department of Health
50 and Human Services, Criminal Records Check Unit, shall notify the nursing home or home care
51 agency as to whether the information received may affect the employability of the applicant. In

1 no case shall the results of the national criminal history record check be shared with the nursing
2 home or home care agency. Nursing homes and home care agencies shall make available upon
3 request verification that a criminal history check has been completed on any staff covered by
4 this section. All criminal history information received by the home or agency is confidential
5 and may not be disclosed, except to the applicant as provided in subsection (b) of this section.

6 (a1) Requirement; Contract Agency of Nursing Home or Home Care Agency. – An offer
7 of employment by a contract agency of a nursing home or home care agency licensed under this
8 Chapter to an applicant to fill a position that does not require the applicant to have an
9 occupational license is conditioned upon consent to a criminal history record check of the
10 applicant. If the applicant has been a resident of this State for less than five years, then the offer
11 of employment is conditioned on consent to a State and national criminal history record check
12 of the applicant. The national criminal history record check shall include a check of the
13 applicant's fingerprints. If the applicant has been a resident of this State for five years or more,
14 then the offer is conditioned on consent to a State criminal history record check of the
15 applicant. A contract agency of a nursing home or home care agency shall not employ an
16 applicant who refuses to consent to a criminal history record check required by this section.
17 Within five business days of making the conditional offer of employment, a contract agency of
18 a nursing home or home care agency shall submit a request to the ~~Department of~~
19 ~~Justice~~Department of Public Safety under ~~G.S. 114-19.10~~G.S. 143B-930 to conduct a State or
20 national criminal history record check required by this section, or shall submit a request to a
21 private entity to conduct a State criminal history record check required by this section.
22 Notwithstanding ~~G.S. 114-19.10~~G.S. 143B-930, the ~~Department of Justice~~ Department of
23 Public Safety shall return the results of national criminal history record checks for employment
24 positions not covered by Public Law 105-277 to the Department of Health and Human
25 Services, Criminal Records Check Unit. Within five business days of receipt of the national
26 criminal history of the person, the Department of Health and Human Services, Criminal
27 Records Check Unit, shall notify the contract agency of the nursing home or home care agency
28 as to whether the information received may affect the employability of the applicant. In no case
29 shall the results of the national criminal history record check be shared with the contract agency
30 of the nursing home or home care agency. Contract agencies of nursing homes and home care
31 agencies shall make available upon request verification that a criminal history check has been
32 completed on any staff covered by this section. All criminal history information received by the
33 contract agency is confidential and may not be disclosed, except to the applicant as provided by
34 subsection (b) of this section.

35 ...

36 (f) Conditional Employment. – A nursing home or home care agency may employ an
37 applicant conditionally prior to obtaining the results of a criminal history record check
38 regarding the applicant if both of the following requirements are met:

- 39 (1) The nursing home or home care agency shall not employ an applicant prior
40 to obtaining the applicant's consent for a criminal history record check as
41 required in subsection (a) of this section or the completed fingerprint cards
42 as required in ~~G.S. 114-19.10~~G.S. 143B-930.
- 43 (2) The nursing home or home care agency shall submit the request for a
44 criminal history record check not later than five business days after the
45 individual begins conditional employment.

46"

47 **SECTION 17.6.(nnn1)** Subpart C of Article 13 of Chapter 143B of the General
48 Statutes, as created by subsection (f) of this section is amended by adding a new section to
49 read:

50 **"§ 143B-918. Assistance to local law enforcement officers.**

1 In the personnel of the Bureau shall be included a sufficient number of persons of training
2 and skill in the investigation of crime and in the preparation of evidence as to be of service to
3 local enforcement officers, under the direction of the Governor, in criminal matters of major
4 importance."

5 **SECTION 17.6.(ooo)** G.S. 143-143.10(b)(6) reads as rewritten:

6 "(6) To request that the Department of Justice conduct criminal history checks of
7 applicants for licensure pursuant to ~~G.S. 114-19-13~~ G.S. 143B-935."

8 **SECTION 17.6.(ppp)** G.S. 143B-1100 reads as rewritten:

9 **"§ 143B-1100. Governor's Crime Commission – creation; composition; terms; meetings,**
10 **etc.**

11 (a) There is hereby created the Governor's Crime Commission of the Department of
12 Public Safety. The Commission shall consist of ~~36~~ 37 voting members and ~~six~~ five nonvoting
13 members. The composition of the Commission shall be as follows:

14 ...

15 (2) The nonvoting members shall be ~~the Director of the State Bureau of~~
16 ~~Investigation,~~ the Deputy Director of the Division of Juvenile Justice of the
17 Department of Public Safety who is responsible for Intervention/Prevention
18 programs, the Deputy Director of the Division of Juvenile Justice of the
19 Department of Public Safety who is responsible for Youth Development
20 programs, the Section Chief of the Section of Prisons of the Division of
21 Adult Correction and the Section Chief of the Section of Community
22 Corrections of the Division of Adult Correction.

23 (b) The membership of the Commission shall be selected as follows:

24 (1) The following members shall serve by virtue of their office: the Governor,
25 the Chief Justice of the Supreme Court, the Attorney General, the Director of
26 the Administrative Office of the Courts, the Secretary of the Department of
27 Health and Human Services, the Secretary of Public Safety, ~~the Director of~~
28 ~~the State Bureau of Investigation,~~ the Section Chief of the Section of Prisons
29 of the Division of Adult Correction, the Section Chief of the Section of
30 Community Corrections of the Division of Adult Correction, the Deputy
31 Director who is responsible for Intervention/Prevention of the Division of
32 Juvenile Justice of the Department of Public Safety, the Deputy Director
33 who is responsible for Youth Development of the Division of Juvenile
34 Justice of the Department of Public Safety, and the Superintendent of Public
35 Instruction. Should the Chief Justice of the Supreme Court choose not to
36 serve, his alternate shall be selected by the Governor from a list submitted by
37 the Chief Justice which list must contain no less than three nominees from
38 the membership of the Supreme Court.

39"

40 **SECTION 17.6.(qqq)** G.S. 148-37.3(c) reads as rewritten:

41 "(c) Any private corporation described in subsection (a) of this section shall reimburse
42 the State and any county or other law enforcement agency for the full cost of any additional
43 expenses incurred by the State or the county or other law enforcement agency in connection
44 with the pursuit and apprehension of an escaped inmate from the facility.

45 In the event of an escape from the facility, any private corporation described in subsection
46 (a) of this section shall immediately notify the sheriff in the county in which the facility is
47 located, who shall cause an immediate entry into the ~~State Bureau of Investigation~~ Division of
48 Criminal Information network ~~Department of Public Safety's Criminal Information Network.~~
49 The sheriff of the county in which the facility is located shall be the lead law enforcement
50 officer in connection with the pursuit and apprehension of an escaped inmate from the facility."

51 **SECTION 17.6.(rrr)** G.S. 153A-94.2 reads as rewritten:

"§ 153A-94.2. Criminal history record checks of employees permitted.

The board of commissioners may adopt or provide for rules and regulations or ordinances concerning a requirement that any applicant for employment be subject to a criminal history record check of State and National Repositories of Criminal Histories conducted by the ~~Department of Justice~~ Department of Public Safety in accordance with ~~G.S. 114-19.14~~ G.S. 143B-936. The local or regional public employer may consider the results of these criminal history record checks in its hiring decisions."

SECTION 17.6.(sss) G.S. 160A-164.2 reads as rewritten:

"§ 160A-164.2. Criminal history record check of employees permitted.

The council may adopt or provide for rules and regulations or ordinances concerning a requirement that any applicant for employment be subject to a criminal history record check of State and National Repositories of Criminal Histories conducted by the ~~Department of Justice~~ Department of Public Safety in accordance with ~~G.S. 114-19.14~~ G.S. 143B-936. The city may consider the results of these criminal history record checks in its hiring decisions."

SECTION 17.6.(ttt) G.S. 164-44(a) reads as rewritten:

"(a) The Commission shall have the secondary duty of collecting, developing, and maintaining statistical data relating to sentencing, corrections, and juvenile justice so that the primary duties of the Commission will be formulated using data that is valid, accurate, and relevant to this State. All State agencies shall provide data as it is requested by the Commission. For the purposes of ~~G.S. 114-19.1~~ G.S. 143B-921, the Commission shall be considered to be engaged in the administration of criminal justice. All meetings of the Commission shall be open to the public and the information presented to the Commission shall be available to any State agency or member of the General Assembly."

PART XVIII. JUDICIAL DEPARTMENT**SUBPART XVIII-A. OFFICE OF INDIGENT DEFENSE SERVICES****OFFICE OF INDIGENT DEFENSE SERVICES REPORT**

SECTION 18A.1. The Office of Indigent Defense Services shall report to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety, the House of Representatives Appropriations Subcommittee on Justice and Public Safety, and the Senate Appropriations Committee on Justice and Public Safety by March 1 of each year on:

- (1) The volume and cost of cases handled in each district by assigned counsel or public defenders;
- (2) Actions taken by the Office to improve the cost-effectiveness and quality of indigent defense, including the capital case program;
- (3) Plans for changes in rules, standards, or regulations in the upcoming year; and
- (4) Any recommended changes in law or funding procedures that would assist the Office in improving the management of funds expended for indigent defense services, including any recommendations concerning the feasibility and desirability of establishing regional public defender offices.

OFFICE OF INDIGENT DEFENSE SERVICES EXPANSION FUNDS

SECTION 18A.2. The Judicial Department, Office of Indigent Defense Services, may use up to the sum of two million one hundred fifty thousand dollars (\$2,150,000) in appropriated funds during the 2013-2014 fiscal year for the expansion of existing offices currently providing legal services to the indigent population under the oversight of the Office of Indigent Defense Services, for the creation of new public defender offices within existing public defender programs, or for the establishment of regional public defender programs.

1 Notwithstanding the defender districts established by G.S. 7A-498.7, the Office of Indigent
2 Defense Services may use a portion of these funds to create positions within existing public
3 defender programs to handle cases in adjacent counties or districts. These funds may be used to
4 create up to 50 new attorney positions and 25 new support staff positions during the 2013-2015
5 fiscal biennium and for the salaries, benefits, equipment, and related expenses for these
6 positions in both years of the biennium. Positions creation will be staggered across the two
7 years of the biennium. Prior to using funds for this purpose, the Office of Indigent Defense
8 Services shall report to the Chairs of the House of Representatives Appropriations
9 Subcommittee on Justice and Public Safety and the Senate Appropriations Committee on
10 Justice and Public Safety on the proposed expansion.

11 12 **OFFICE OF INDIGENT DEFENSE SERVICES/STATE MATCH FOR GRANTS**

13 **SECTION 18A.3.** Notwithstanding G.S. 143C-6-9, during the 2013-2015 fiscal
14 biennium, the Office of Indigent Defense Services may use the sum of up to fifty thousand
15 dollars (\$50,000) from funds available to provide the State matching funds needed to receive
16 grant funds. Prior to using funds for this purpose, the Office shall report to the Chairs of the
17 House of Representatives Appropriations Subcommittee on Justice and Public Safety, the
18 Senate Appropriations Committee on Justice and Public Safety, and the Joint Legislative
19 Commission on Governmental Operations on the grants to be matched using these funds.

20 21 **PRIVATE ASSIGNED COUNSEL**

22 **SECTION 18A.4.** The Office of Indigent Defense Services shall issue a request for
23 proposals from private law firms or not-for-profit legal representation organizations for the
24 provision of all classes of legal cases for indigent clients in all judicial districts. The Office of
25 Indigent Defense Services shall report on the issuance of this request for proposals to the Joint
26 Legislative Commission on Governmental Operations by October 1, 2013. In cases where the
27 proposed contract can provide representation services more efficiently than current costs, the
28 Office of Indigent Defense Services shall use private assigned counsel funds to enter into
29 contracts for this purpose. In selecting contracts, the Office of Indigent Defense Services shall
30 consider the cost-effectiveness of the proposed contract. Disputes regarding the ability of the
31 potential contractor to provide effective representation for clients served by the contract shall
32 be determined by the senior resident superior court judge for the district.

33 34 **SENIOR RESIDENT SUPERIOR COURT JUDGES SHALL APPOINT PUBLIC 35 DEFENDERS**

36 **SECTION 18A.5.** G.S. 7A-498.7(b) reads as rewritten:

37 "(b) For each new term, and to fill any vacancy, public defenders shall be appointed
38 from a list of not less than two and not more than three names nominated by written ballot of
39 the attorneys resident in the defender district who are licensed to practice law in North
40 Carolina. The balloting shall be conducted pursuant to rules adopted by the Commission on
41 Indigent Defense Services. The appointment shall be made by the ~~Commission on Indigent
42 Defense Services~~ senior resident superior court judge of the superior court district or set of
43 districts as defined in G.S. 7A-41.1 that includes the county or counties of the defender district
44 for which the public defender is being appointed."

45 46 **RESOLVING CONFLICTS OF INTEREST IN PUBLIC DEFENDER OFFICES**

47 **SECTION 18A.6.** G.S. 7A-498.7 is amended by adding a new subsection to read:

48 "(f1) In cases in which a public defender determines that a conflict of interest exists in the
49 office, whenever practical, rather than obtaining private assigned counsel to resolve the
50 conflict, the public defender may request the appointment of an assistant public defender from
51 another office of public defender in the region to resolve the conflict."

SUBPART XVIII-B. ADMINISTRATIVE OFFICE OF THE COURTS**GRANT FUNDS**

SECTION 18B.1. Notwithstanding G.S. 143C-6-9, the Administrative Office of the Courts may use up to the sum of one million five hundred thousand dollars (\$1,500,000) from funds available to the Department to provide the State match needed in order to receive grant funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, the Senate Appropriations Committee on Justice and Public Safety, and to the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

COLLECTION OF WORTHLESS CHECK FUNDS

SECTION 18B.2. Notwithstanding the provisions of G.S. 7A-308(c), the Judicial Department may use any balance remaining in the Collection of Worthless Checks Fund on June 30, 2013, for the purchase or repair of office or information technology equipment during the 2013-2014 fiscal year. Prior to using any funds under this section, the Judicial Department shall report to the Joint Legislative Commission on Governmental Operations, the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, the Chairs of the Senate Appropriations Committee on Justice and Public Safety, and the Office of State Budget and Management on the equipment to be purchased or repaired and the reasons for the purchases.

COURT REPORTER CONTRACTUAL SERVICES FUNDS

SECTION 18B.3. Of the funds appropriated in this act to the Judicial Department for court reporters, the Department shall use the sum of one million nine hundred thirty-eight thousand nine hundred thirty-nine dollars (\$1,938,939) during the 2013-2014 fiscal year to provide contractual services of court reporters for superior court.

CONFERENCE OF DISTRICT ATTORNEYS GRANT FUND

SECTION 18B.4. Of the funds appropriated in this act to the Judicial Department, the sum of one million two hundred fifty thousand dollars (\$1,250,000) in the 2013-2014 fiscal year and the sum of seven hundred fifty thousand dollars (\$750,000) in the 2014-2015 fiscal year shall be allocated to the Conference of District Attorneys and shall be used to establish a grant fund to provide district attorneys across the State with the resources to obtain toxicology analysis from local hospitals on persons charged with driving while impaired whose conduct did not result in serious injury or death to others.

MODIFY LEGAL AID DOMESTIC VIOLENCE REPORT

SECTION 18B.5. G.S. 7A-474.20 reads as rewritten:

"§ 7A-474.20. Records and reports.

The established legal services programs shall keep appropriate records and make periodic reports, as requested, to the North Carolina State Bar. The North Carolina State Bar shall report annually to the ~~General Assembly~~ Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on the amount of the funds disbursed and the use of the funds by each legal services program receiving funds. The report to the ~~General Assembly~~ Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety shall be made by January 15 of each year beginning January 15, 2006."

FAMILY COURT PROGRAMS

1 **SECTION 18B.6.** The Administrative Office of the Courts shall provide direction
2 and oversight to the existing family court programs in order to ensure that each district with a
3 family court program is utilizing best practices and is working effectively and efficiently in the
4 disposition of domestic and juvenile cases. The Administrative Office of the Courts shall report
5 on its efforts in this regard and the results of those efforts to the Chairs of the House of
6 Representatives Appropriations Subcommittee on Justice and Public Safety, the Senate
7 Appropriations Committee on Justice and Public Safety, and the Joint Legislative Oversight
8 Committee on Justice and Public Safety by March 1, 2014.

9
10 **MAGISTRATE DISTRIBUTION FORMULA**

11 **SECTION 18B.7.** The Administrative Office of the Courts, in consultation with
12 the National Center for State Courts, shall study its current formula for the distribution of
13 magistrates across the State and consider revisions to that formula designed to take into account
14 regional differences, travel considerations, and the potential for regionalizing magistrates. The
15 Administrative Office of the Courts shall report its findings and recommendations to the Chairs
16 of the Joint Legislative Oversight Committee on Justice and Public Safety by February 1, 2014.

17
18 **MINUTES MAINTAINED BY THE CLERK OF SUPERIOR COURT TO RECORD**
19 **CONVENING AND ADJOURNMENT OR RECESS OF BOTH DISTRICT AND**
20 **SUPERIOR COURT**

21 **SECTION 18B.8.(a)** G.S. 7A-109(a1) is amended by adding a new section to read:
22 "(a) The minutes maintained by the clerk pursuant to this subsection shall record the date
23 and time of each convening of district and superior court, as well as the date and time of each
24 recess or adjournment of district and superior court with no further business before the court."

25 **SECTION 18B.8.(b)** The Administrative Office of the Courts shall provide on a
26 monthly basis the records of the dates and times of convening, recess, and adjournment of
27 district and superior court collected by each clerk of superior court pursuant to G.S. 7A-109, as
28 amended by subsection (a) of this section, to the National Center for State Courts, the Fiscal
29 Research Division, and the Chairs of the Joint Legislative Oversight Committee on Justice and
30 Public Safety.

31 **SECTION 18B.8.(c)** This section becomes effective January 1, 2014.

32
33 **JUDICIAL FORMS SHALL CONFORM TO JUSTICE REINVESTMENT CHANGES**

34 **SECTION 18B.9.** The Administrative Office of the Courts shall ensure that all
35 judicial forms being used in the General Court of Justice conform to all of the changes made in
36 the law with the enactment of the Justice Reinvestment Act of 2011, as amended.

37
38 **CRIMINAL CASE INFORMATION SYSTEM FOR PUBLIC DEFENDERS**

39 **SECTION 18B.10.** The Administrative Office of the Courts shall use funds
40 allocated to the Judicial Department for technology for the 2013-2014 fiscal biennium to
41 develop or acquire and to implement a component of the Department's criminal case
42 information system for use by public defenders no later than July 1, 2014.

43
44 **CLERKS SHALL ACCEPT CREDIT CARDS**

45 **SECTION 18B.11.(a)** G.S. 7A-321(a) reads as rewritten:
46 "(a) The Judicial Department ~~may, shall,~~ in lieu of payment by cash or check, accept
47 payment by credit card, charge card, or debit card for the ~~finer, fees, and~~ costs owed to the
48 ~~courts by offenders court, including fines, fees, and restitution.~~"

49 **SECTION 18B.11.(b)** The Administrative Office of the Courts shall provide a
50 cost-effective system for accepting online payments for court costs to all clerks of superior
51 court by January 1, 2014.

SECTION 18B.11.(c) This section becomes effective January 1, 2014.

SPECIAL SUPERIOR COURT JUDGES

SECTION 18B.12. Effective July 1, 2013, G.S. 7A-45.1 is amended by adding a new subsection to read:

"(a8) Notwithstanding any other provision of this section, except as to those three seats designated as of January 1, 2013, under G.S. 7A-45.3 as business court judges, effective on and after July 1, 2013, any seat established by this section is abolished."

AMEND CLASS 3 MISDEMEANOR SENTENCES

SECTION 18B.13.(a) G.S. 15A-1340.23 reads as rewritten:

"§ 15A-1340.23. Punishment limits for each class of offense and prior conviction level.

(a) Offense Classification; Default Classifications. – The offense classification is as specified in the offense for which the sentence is being imposed. If the offense is a misdemeanor for which there is no classification, it is as classified in G.S. 14-3.

(b) Fines. – Any judgment that includes a sentence of imprisonment may also include a fine. Additionally, when the defendant is other than an individual, the judgment may consist of a fine only. If a community punishment is authorized, the judgment may consist of a fine only. Unless otherwise provided for a specific offense, the maximum fine that may be imposed is two hundred dollars (\$200.00) for a Class 3 misdemeanor and one thousand dollars (\$1,000) for a Class 2 misdemeanor. The amount of the fine for a Class 1 misdemeanor and a Class A1 misdemeanor is in the discretion of the court.

(c) Punishment for Each Class of Offense and Prior Conviction Level; Punishment Chart Described. – Unless otherwise provided for a specific offense, the authorized punishment for each class of offense and prior conviction level is as specified in the chart below. Prior conviction levels are indicated by the Roman numerals placed horizontally on the top of the chart. Classes of offenses are indicated by the Arabic numbers placed vertically on the left side of the chart. Each grid on the chart contains the following components:

- (1) A sentence disposition or dispositions: "C" indicates that a community punishment is authorized; "I" indicates that an intermediate punishment is authorized; and "A" indicates that an active punishment is authorized; and
- (2) A range of durations for the sentence of imprisonment: any sentence within the duration specified is permitted.

PRIOR CONVICTION LEVELS

MISDEMEANOR

OFFENSE CLASS	LEVEL I No Prior Convictions	LEVEL II One to Four Prior Convictions	LEVEL III Five or More Prior Convictions
A1	1-60 days C/I/A	1-75 days C/I/A	1-150 days C/I/A
1	1-45 days C	1-45 days C/I/A	1-120 days C/I/A
2	1-30 days C	1-45 days C/I	1-60 days C/I/A
3	1-10 days C	1-15 days C/I 1-15 days C if one to three prior convictions	1-20 days C/I/A.
		1-15 days C/I if four prior convictions	

(d) Fine Only for Certain Class 3 Misdemeanors. – Unless otherwise provided for a specific offense, the judgment for a person convicted of a Class 3 misdemeanor who has no more than three prior convictions shall consist only of a fine."

1 **SECTION 18B.13.(b)** This section becomes effective December 1, 2013.
2 Prosecutions for offenses committed before the effective date of this section are not abated or
3 affected by this section, and the statutes that would be applicable but for this section remain
4 applicable to those prosecutions.
5

6 **RECLASSIFICATION OF CERTAIN CLASS 1 AND CLASS 2 MISDEMEANORS AS**
7 **CLASS 3 MISDEMEANORS**

8 **SECTION 18B.14.(a)** G.S. 14-106 reads as rewritten:

9 **"§ 14-106. Obtaining property in return for worthless check, draft or order.**

10 Every person who, with intent to cheat and defraud another, shall obtain money, credit,
11 goods, wares or any other thing of value by means of a check, draft or order of any kind upon
12 any bank, person, firm or corporation, not indebted to the drawer, or where he has not provided
13 for the payment or acceptance of the same, and the same be not paid upon presentation, shall be
14 guilty of a ~~Class 2 misdemeanor~~Class 3 misdemeanor. The giving of the aforesaid worthless
15 check, draft, or order shall be prima facie evidence of an intent to cheat and defraud."

16 **SECTION 18B.14.(b)** G.S. 14-107(d) reads as rewritten:

17 "(d) A violation of this section is a Class I felony if the amount of the check or draft is
18 more than two thousand dollars (\$2,000). If the amount of the check or draft is two thousand
19 dollars (\$2,000) or less, a violation of this section is a misdemeanor punishable as follows:

- 20 (1) Except as provided in subdivision (3) or (4) of this subsection, the person is
21 guilty of a ~~Class 2 misdemeanor~~Class 3 misdemeanor. Provided, however, if
22 the person has been convicted three times of violating this section, the
23 person shall on the fourth and all subsequent convictions (i) be punished as
24 for a Class 1 misdemeanor and (ii) be ordered, as a condition of probation, to
25 refrain from maintaining a checking account or making or uttering a check
26 for three years.
- 27 (2) Repealed by Session Laws 1999-408, s. 1.
- 28 (3) If the check or draft is drawn upon a nonexistent account, the person is
29 guilty of a Class 1 misdemeanor.
- 30 (4) If the check or draft is drawn upon an account that has been closed by the
31 drawer, or that the drawer knows to have been closed by the bank or
32 depository, prior to time the check is drawn, the person is guilty of a Class 1
33 misdemeanor."

34 **SECTION 18B.14.(c)** G.S. 14-167 reads as rewritten:

35 **"§ 14-167. Failure to return hired property.**

36 Any person who shall rent or hire, any horse, mule or other like animal, or any buggy,
37 wagon, truck, automobile, or other vehicle, aircraft, motor, trailer, appliance, equipment, tool,
38 or other thing of value, and who shall willfully fail to return the same to the possession of the
39 person, firm or corporation from whom such property has been rented or hired at the expiration
40 of the time for which such property has been rented or hired, shall be guilty of a ~~Class 2~~
41 ~~misdemeanor~~Class 3 misdemeanor.

42 If the value at the time of the rental or hiring of the truck, automobile, or other motor
43 vehicle that is not returned is in excess of four thousand dollars (\$4,000), the person who rented
44 or hired it and failed to return it shall be guilty of a Class H felony."

45 **SECTION 18B.14.(d)** G.S. 14-168.1 reads as rewritten:

46 **"§ 14-168.1. Conversion by bailee, lessee, tenant or attorney-in-fact.**

47 Every person entrusted with any property as bailee, lessee, tenant or lodger, or with any
48 power of attorney for the sale or transfer thereof, who fraudulently converts the same, or the
49 proceeds thereof, to his own use, or secretes it with a fraudulent intent to convert it to his own
50 use, shall be guilty of a ~~Class 1 misdemeanor~~Class 3 misdemeanor.

1 If, however, the value of the property converted or secreted, or the proceeds thereof, is in
2 excess of four hundred dollars (\$400.00), every person so converting or secreting it is guilty of
3 a Class H felony. In all cases of doubt the jury shall, in the verdict, fix the value of the property
4 converted or secreted."

5 **SECTION 18B.14.(e)** G.S. 14-168.4(a) reads as rewritten:

6 "(a) It shall be a ~~Class 2 misdemeanor~~Class 3 misdemeanor for any person to fail to
7 return rented property with intent to defeat the rights of the owner, which is rented pursuant to a
8 written rental agreement in which there is an option to purchase the property, after the date of
9 termination provided in the agreement has occurred or, if the termination date is the occurrence
10 of a specified event, then that such event has in fact occurred."

11 **SECTION 18B.14.(f)** G.S. 20-28(a) reads as rewritten:

12 "(a) Driving While License Revoked. – Except as provided in subsection (a1) of this
13 section, any person whose drivers license has been revoked who drives any motor vehicle upon
14 the highways of the State while the license is revoked is guilty of a Class 3 misdemeanor unless
15 the person's license was originally revoked for an impaired driving revocation, in which case
16 the person is guilty of a Class 1 misdemeanor. Upon conviction, the person's license shall be
17 revoked for an additional period of one year for the first offense, two years for the second
18 offense, and permanently for a third or subsequent offense.

19 If the person's license was originally revoked for an impaired driving revocation, the court
20 may order as a condition of probation that the offender abstain from alcohol consumption and
21 verify compliance by use of a continuous alcohol monitoring system, of a type approved by the
22 Division of Adult Correction of the Department of Public Safety, for a minimum period of 90
23 days.

24 The restoree of a revoked drivers license who operates a motor vehicle upon the highways
25 of the State without maintaining financial responsibility as provided by law shall be punished
26 as for driving without a license."

27 **SECTION 18B.14.(g)** G.S. 20-35 reads as rewritten:

28 "**§ 20-35. Penalties for violating Article; defense to driving without a license.**

29 (a) Penalty. – ~~Except as otherwise provided in subsection (a1) of this section, a~~
30 violation of this Article is a Class 2 misdemeanor unless a statute in the Article sets a different
31 punishment for the violation. If a statute in this Article sets a different punishment for a
32 violation of the Article, the different punishment applies.

33 (a1) The following offenses are Class 3 misdemeanors:

- 34 (1) Failure to obtain a license before driving a motor vehicle, in violation of
35 G.S. 20-7(a).
- 36 (2) Failure to carry a valid license while driving a motor vehicle, in violation of
37 G.S. 20-7(a).
- 38 (3) Failure to comply with license restrictions, in violation of G.S. 20-7(e).
- 39 (4) Operation of a motor vehicle with an expired license, in violation of
40 G.S. 20-7(f).
- 41 (5) Failure to notify the Division of Motor Vehicles of an address change for a
42 drivers license within 60 days after the change occurs, in violation of
43 G.S. 20-7.1.
- 44 (6) Permitting a motor vehicle owned by the person to be operated by an
45 unlicensed person, in violation of G.S. 20-34.

46"

47 **SECTION 18B.14.(h)** G.S. 20-176 reads as rewritten:

48 "**§ 20-176. Penalty for misdemeanor or infraction.**

49 (a) Violation of a provision of Part 9, 10, 10A, or 11 of this Article is an infraction
50 unless the violation is specifically declared by law to be a misdemeanor or felony. Violation of

1 the remaining Parts of this Article is a misdemeanor unless the violation is specifically declared
2 by law to be an infraction or a felony.

3 (b) Unless a specific penalty is otherwise provided by law, a person found responsible
4 for an infraction contained in this Article may be ordered to pay a penalty of not more than one
5 hundred dollars (\$100.00).

6 (c) ~~Unless~~Except as otherwise provided in subsection (c2) of this section, and unless
7 a specific penalty is otherwise provided by law, a person convicted of a misdemeanor contained
8 in this Article is guilty of a Class 2 misdemeanor. A punishment is specific for purposes of this
9 subsection if it contains a quantitative limit on the term of imprisonment or the amount of fine a
10 judge can impose.

11 (c1) Notwithstanding any other provision of law, no person convicted of a misdemeanor
12 for the violation of any provision of this Chapter except G.S. 20-28(a) and (b), G.S. 20-141(j),
13 G.S. 20-141.3(b) and (c), G.S. 20-141.4, or a second or subsequent conviction of G.S. 20-138.1
14 shall be imprisoned in the State prison system unless the person previously has been
15 imprisoned in a local confinement facility, as defined by G.S. 153A-217(5), for a violation of
16 this Chapter.

17 (c2) A person who does any of the following is guilty of a Class 3 misdemeanor:

18 (1) Fails to carry the registration card in the vehicle, in violation of
19 G.S. 20-57(c).

20 (2) Fails to sign the vehicle registration card, in violation of G.S. 20-57(c).

21 (3) Fails to notify the Division of Motor Vehicles of an address change for a
22 vehicle registration card within 60 days after the change occurs, in violation
23 of G.S. 20-67.

24 (d) For purposes of determining whether a violation of an offense contained in this
25 Chapter constitutes negligence per se, crimes and infractions shall be treated identically."

26 **SECTION 18B.14.(i)** G.S. 20-111 reads as rewritten:

27 "**§ 20-111. Violation of registration provisions.**

28 It shall be unlawful for any person to commit any of the following acts:

29 (1) To drive a vehicle on a highway, or knowingly permit a vehicle owned by
30 that person to be driven on a highway, when the vehicle is not registered
31 with the Division in accordance with this Article or does not display a
32 current registration plate. Violation of this subdivision is a Class 3
33 misdemeanor.

34 (2) To display or cause or permit to be displayed or to have in possession any
35 registration card, certificate of title or registration number plate knowing the
36 same to be fictitious or to have been canceled, revoked, suspended or
37 altered, or to willfully display an expired license or registration plate on a
38 vehicle knowing the same to be expired. Violation of this subdivision is a
39 Class 3 misdemeanor.

40 (3) The giving, lending, or borrowing of a license plate for the purpose of using
41 same on some motor vehicle other than that for which issued shall make the
42 giver, lender, or borrower guilty of a Class 3 misdemeanor. Where license
43 plate is found being improperly used, such plate or plates shall be revoked or
44 canceled, and new license plates must be purchased before further operation
45 of the motor vehicle.

46 (4) To fail or refuse to surrender to the Division, upon demand, any title
47 certificate, registration card or registration number plate which has been
48 suspended, canceled or revoked as in this Article provided. Service of the
49 demand shall be in accordance with G.S. 20-48.

50 (5) To use a false or fictitious name or address in any application for the
51 registration of any vehicle or for a certificate of title or for any renewal or

1 duplicate thereof, or knowingly to make a false statement or knowingly to
2 conceal a material fact or otherwise commit a fraud in any such application.
3 A violation of this subdivision shall constitute a Class 1 misdemeanor.

- 4 (6) To give, lend, sell or obtain a certificate of title for the purpose of such
5 certificate being used for any purpose other than the registration, sale, or
6 other use in connection with the vehicle for which the certificate was issued.
7 Any person violating the provisions of this subdivision shall be guilty of a
8 Class 2 misdemeanor."

9 **SECTION 18B.14.(j)** G.S. 20-127(d) reads as rewritten:

10 "(d) Violations. – A person who does any of the following commits a ~~misdemeanor of~~
11 ~~the class set in G.S. 20-176: Class 3 misdemeanor:~~

- 12 (1) Applies tinting to the window of a vehicle that is subject to a safety
13 inspection in this State and the resulting tinted window does not meet the
14 window tinting restrictions set in this section.
15 (2) Drives on a highway or a public vehicular area a vehicle that has a window
16 that does not meet the window tinting restrictions set in this section."

17 **SECTION 18B.14.(k)** G.S. 20-141(j1) reads as rewritten:

18 "(j1) A person who drives a vehicle on a highway at a speed that is either more than 15
19 miles per hour more than the speed limit established by law for the highway where the offense
20 occurred or over 80 miles per hour is guilty of a ~~Class 2 misdemeanor. Class 3 misdemeanor.~~"

21 **SECTION 18B.14.(l)** G.S. 20-313(a) reads as rewritten:

22 "(a) On or after July 1, 1963, any owner of a motor vehicle registered or required to be
23 registered in this State who shall operate or permit such motor vehicle to be operated in this
24 State without having in full force and effect the financial responsibility required by this Article
25 shall be guilty of a ~~Class 1 misdemeanor. Class 3 misdemeanor.~~"

26 **SECTION 18B.14.(m)** G.S. 113-135(a) reads as rewritten:

27 "(a) Any person who violates any provision of this Subchapter or any rule adopted by
28 the Marine Fisheries Commission or the Wildlife Resources Commission, as appropriate,
29 pursuant to the authority of this Subchapter, is guilty of a misdemeanor except that punishment
30 for violation of the rules of the Wildlife Resources Commission is limited as set forth in
31 G.S. 113-135.1. Unless Fishing without a license in violation of G.S. 113-174.1(a) or
32 G.S. 113-270.1B(a) is punishable as a Class 3 misdemeanor. Otherwise, unless a different level
33 of punishment is elsewhere set out, anyone convicted of a misdemeanor under this section is
34 punishable as follows:

- 35 (1) For a first conviction, as a Class 3 misdemeanor.
36 (2) For a second or subsequent conviction within three years, as a Class 2
37 misdemeanor."

38 **SECTION 18B.14.(n)** This section becomes effective December 1, 2013.
39 Prosecutions for offenses committed before the effective date of this section are not abated or
40 affected by this section, and the statutes that would be applicable but for this section remain
41 applicable to those prosecutions.

42 43 **RECLASSIFY CERTAIN VIOLATIONS OF THE BOATING SAFETY ACT FROM** 44 **CLASS 3 MISDEMEANORS TO INFRACTIONS**

45 **SECTION 18B.15.(a)** G.S. 75A-6.1 reads as rewritten:

46 "(c) Violation of the navigation rules specified in subsection (a) of this section shall
47 constitute a ~~Class 3 misdemeanor and is punishable only by a fine not to exceed one hundred~~
48 ~~dollars (\$100.00).an infraction as provided in G.S. 14-3.1."~~

49 **SECTION 18B.15.(b)** G.S. 75A-13.1 reads as rewritten:

50 "§ 75A-13.1. **Skin and scuba divers.**

1 (a) No person shall engage in skin diving or scuba diving in the waters of this State that
2 are open to boating, or assist in such diving, without displaying a diver's flag from a mast,
3 buoy, or other structure at the place of diving; and no person shall display such flag except
4 when diving operations are under way or in preparation.

5 (b) The diver's flag shall be square, not less than 12 inches on a side, and shall be of red
6 background with a diagonal white stripe, of a width equal to one fifth of the flag's height,
7 running from the upper corner adjacent to the mast downward to the opposite outside corner.

8 (c) No operator of a vessel under way in the waters of this State shall permit the vessel
9 to approach closer than 50 feet to any structure from which a diver's flag is then being
10 displayed, except where the flag is so positioned as to constitute an unreasonable obstruction to
11 navigation; and no person shall engage in skin diving or scuba diving or display a diver's flag in
12 any locality that will unreasonably obstruct vessels from making legitimate navigational use of
13 the water.

14 (d) A person who violates a provision of this section is ~~guilty of a Class 3 misdemeanor~~
15 ~~and shall only be subject to a fine not to exceed twenty five dollars (\$25.00).~~responsible for an
16 infraction as provided in G.S. 14-3.1."

17 **SECTION 18B.15.(c)** G.S. 75A-13.3(c3) reads as rewritten:

18 "(c3) A vessel livery shall provide the operator of a leased personal watercraft with basic
19 safety instruction prior to allowing the operation of the leased personal watercraft. "Basic safety
20 instruction" shall include direction on how to safely operate the personal watercraft and a
21 review of the safety provisions of this section. A vessel livery that fails to provide basic safety
22 instruction is ~~guilty of a Class 3 misdemeanor~~responsible for an infraction as provided in
23 G.S. 14-3.1."

24 **SECTION 18B.15.(d)** G.S. 75A-17(f) reads as rewritten:

25 "(f) Vessels operated on the waters of this State shall slow to a no-wake speed when
26 passing within 100 feet of a law enforcement vessel that is displaying a flashing blue light
27 unless the vessel is in a narrow channel. Vessels operated on the waters of this State in a
28 narrow channel shall slow to a no-wake speed when passing within 50 feet of a law
29 enforcement vessel that is displaying a flashing blue light. A person who violates this
30 subsection is ~~guilty of a Class 3 misdemeanor~~responsible for an infraction as provided in
31 G.S. 14-3.1."

32 **SECTION 18B.15.(e)** G.S. 75A-18(a) reads as rewritten:

33 "(a) Except as otherwise provided, a person who violates a provision of this Article or
34 who violates a rule adopted under authority of this Chapter is ~~guilty of a Class 3 misdemeanor~~
35 ~~and shall only be subject to a fine not to exceed two hundred and fifty dollars (\$250.00) for~~
36 ~~each violation.~~responsible for an infraction as provided in G.S. 14-3.1. This limitation shall not
37 apply in a case where a more severe penalty is prescribed in this Chapter."

38 **SECTION 18B.15.(f)** This section becomes effective December 1, 2013.
39 Prosecutions for offenses committed before the effective date of this section are not abated or
40 affected by this section, and the statutes that would be applicable but for this section remain
41 applicable to those prosecutions.

42 43 **EXPUNCTION FEES**

44 **SECTION 18B.16.(a)** G.S. 15A-145(e) reads as rewritten:

45 "(e) A person who files a petition for expunction of a criminal record under this section
46 must pay the clerk of superior court a fee of ~~one hundred twenty five dollars (\$125.00)~~one
47 hundred seventy-five dollars (\$175.00) at the time the petition is filed. Fees collected under this
48 subsection shall be deposited in the General Fund. This subsection does not apply to petitions
49 filed by an indigent."

50 **SECTION 18B.16.(b)** G.S. 15A-145.1 is amended by adding a new subsection to
51 read:

1 "(d) A person who files a petition for expunction of a criminal record under this section
2 must pay the clerk of superior court a fee of one hundred seventy-five dollars (\$175.00) at the
3 time the petition is filed. Fees collected under this subsection shall be deposited in the General
4 Fund. This subsection does not apply to petitions filed by an indigent."

5 **SECTION 18B.16.(c)** G.S. 15A-145.2(d) reads as rewritten:

6 "(d) A person who files a petition for expunction of a criminal record under this section
7 must pay the clerk of superior court a fee of ~~sixty-five dollars (\$65.00)~~ one hundred
8 seventy-five dollars (\$175.00) at the time the petition is filed. Fees collected under this
9 subsection shall be deposited in the General Fund. This subsection does not apply to petitions
10 filed by an indigent."

11 **SECTION 18B.16.(d)** G.S. 15A-145.3 is amended by adding a new subsection to
12 read:

13 "(d) A person who files a petition for expunction of a criminal record under this section
14 must pay the clerk of superior court a fee of one hundred seventy-five dollars (\$175.00) at the
15 time the petition is filed. Fees collected under this subsection shall be deposited in the General
16 Fund. This subsection does not apply to petitions filed by an indigent."

17 **SECTION 18B.16.(e)** G.S. 15A-145.4 is amended by adding a new subsection to
18 read:

19 "(j) A person who files a petition for expunction of a criminal record under this section
20 must pay the clerk of superior court a fee of one hundred seventy-five dollars (\$175.00) at the
21 time the petition is filed. Fees collected under this subsection shall be deposited in the General
22 Fund. This subsection does not apply to petitions filed by an indigent."

23 **SECTION 18B.16.(f)** G.S. 15A-146 is amended by adding a new subsection to
24 read:

25 "(d) A person charged with a crime that is dismissed pursuant to compliance with a
26 deferred prosecution agreement and who files a petition for expunction of a criminal record
27 under this section must pay the clerk of superior court a fee of one hundred seventy-five dollars
28 (\$175.00) at the time the petition is filed. Fees collected under this subsection shall be
29 deposited in the General Fund. This subsection does not apply to petitions filed by an indigent."

30 **SECTION 18B.16.(g)** This section becomes effective December 1, 2013, and
31 applies to petitions for expunction filed on or after that date.

32 **AMEND MOTION FEES**

33 **SECTION 18B.17.(a)** G.S. 7A-305(f) reads as rewritten:

34 "(f) For the support of the General Court of Justice, the sum of twenty dollars (\$20.00)
35 shall accompany any filing ~~containing one or more motions of a notice of hearing on a motion~~
36 not listed in G.S. 7A-308 that is filed with the clerk. No costs shall be assessed to a notice of
37 hearing on a motion containing as a sole claim for relief the taxing of costs, including attorneys'
38 fees."

39 **SECTION 18B.17.(b)** G.S. 7A-306(g) reads as rewritten:

40 "(g) For the support of the General Court of Justice, the sum of twenty dollars (\$20.00)
41 shall accompany any filing ~~containing one or more motions of a notice of hearing on a motion~~
42 not listed in G.S. 7A-308 that is filed with the clerk. No costs shall be assessed to a notice of
43 hearing on a motion containing as a sole claim for relief the taxing of costs, including attorneys'
44 fees."

45 **SECTION 18B.17.(c)** G.S. 7A-307(a)(4) reads as rewritten:

46 "(4) For the support of the General Court of Justice, the sum of twenty dollars
47 (\$20.00) shall accompany any filing ~~requiring a notice of hearing and~~
48 containing one or more motions of a notice of hearing on a motion not listed
49 in G.S. 7A-308 that is filed with the clerk. No costs shall be assessed to a
50

1 notice of hearing on a motion containing as a sole claim for relief the taxing
2 of costs, including attorneys' fees."

3 **SECTION 18B.17.(d)** This section becomes effective August 1, 2013, and applies
4 to notices of hearing on a motion not listed in G.S. 7A-308 filed on or after that date.

6 **CRIMINAL JUSTICE EDUCATION AND STANDARDS COMMISSION COURT FEE**

7 **SECTION 18B.18.(a)** G.S. 7A-304(a) reads as rewritten:

8 "(a) In every criminal case in the superior or district court, wherein the defendant is
9 convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the
10 prosecuting witness, the following costs shall be assessed and collected. No costs may be
11 assessed when a case is dismissed. Only upon entry of a written order, supported by findings of
12 fact and conclusions of law, determining that there is just cause, the court may (i) waive costs
13 assessed under this section or (ii) waive or reduce costs assessed under subdivisions (7) or (8)
14 of this section.

15 ...

16 (3b) For the services, staffing, and operations of the Criminal Justice Education
17 and Standards ~~Commission and the Sheriffs' Education and Training~~
18 ~~Standards~~Commission, the sum of two dollars (\$2.00) to be remitted to the
19 Department of Justice. ~~One dollar and thirty cents (\$1.30) of this sum shall~~
20 ~~be used exclusively for the Criminal Justice Education and Standards~~
21 ~~Commission, and seventy cents (70¢) shall be used exclusively for the~~
22 ~~Sheriffs' Education and Training Standards Commission.~~

23 "

24 **SECTION 18B.18.(b)** This section becomes effective July 1, 2013, and applies to
25 all costs assessed or collected on or after that date.

27 **COURT COSTS FOR SERVICES OF EXPERT WITNESS PROVIDING TESTIMONY** 28 **ABOUT A CHEMICAL OR FORENSIC ANALYSIS AT TRIAL**

29 **SECTION 18B.19.(a)** G.S. 7A-304(a) reads as rewritten:

30 "(a) In every criminal case in the superior or district court, wherein the defendant is
31 convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the
32 prosecuting witness, the following costs shall be assessed and collected. No costs may be
33 assessed when a case is dismissed. Only upon entry of a written order, supported by findings of
34 fact and conclusions of law, determining that there is just cause, the court may (i) waive costs
35 assessed under this section or (ii) waive or reduce costs assessed under ~~subdivisions (7) or~~
36 ~~(8)~~subdivision (7), (8), (11), or (12) of this section.

37 ...

38 (11) For the services of an expert witness employed by the North Carolina State
39 Crime Laboratory who completes a chemical analysis pursuant to
40 G.S. 20-139.1 or a forensic analysis pursuant to G.S. 8-58.20 and provides
41 testimony about that analysis in a defendant's trial, the district or superior
42 court judge shall, upon conviction of the defendant, order payment of the
43 sum of six hundred dollars (\$600.00) to be remitted to the Department of
44 Justice for support of the State Crime Laboratory. This cost shall be assessed
45 only in cases in which the expert witness provides testimony about the
46 chemical or forensic analysis in the defendant's trial and shall be in addition
47 to any cost assessed under subdivision (7) of this subsection.

48 (12) For the services of an expert witness employed by a crime laboratory
49 operated by a local government or group of local governments who
50 completes a chemical analysis pursuant to G.S. 20-139.1 or a forensic
51 analysis pursuant to G.S. 8-58.20 and provides testimony about that analysis

1 in a defendant's trial, the district or superior court judge shall, upon
2 conviction of the defendant, order payment of the sum of six hundred dollars
3 (\$600.00) to be remitted to the general fund of the local governmental unit
4 that operates the laboratory to be used for local law enforcement. This cost
5 shall be assessed only in cases in which the expert witness provides
6 testimony about the chemical or forensic analysis in the defendant's trial and
7 shall be in addition to any cost assessed under subdivision (8) of this
8 subsection."

9 SECTION 18B.19.(b) This section becomes effective July 1, 2013, and applies to
10 fees assessed or collected on or after that date.

11 PART XIX. DEPARTMENT OF CULTURAL RESOURCES

12 CULTURAL RESOURCES TO FIND ALTERNATIVE FUNDING FOR STATE 13 HISTORIC SITES

14 SECTION 19.1. In an effort to reduce funding of the State's 27 Historic Sites, the
15 Department of Cultural Resources shall find alternative funding sources to support these sites
16 by actively seeking support from the following: (i) the local governments where these Historic
17 Sites are located, (ii) the nonprofit groups associated with these Historic Sites, and (iii) other
18 private sources.

19 ALLOW EXEMPTION TO RULE-MAKING PROCESS FOR ESTABLISHING AND 20 CHANGING ADMISSION AND ACTIVITY FEES AT STATE HISTORIC SITES, 21 MUSEUMS, AND TRYON PALACE HISTORIC SITES AND GARDENS

22 SECTION 19.2.(a) G.S. 121-7.3 reads as rewritten:

23 "§ 121-7.3. Admission fees.

24 The Department of Cultural Resources may charge a reasonable admission fee to any
25 historic site and museum administered by the Department. Admission fees collected under this
26 section are receipts of the Department and shall be deposited in a nonreverting account. The
27 Department shall retain unbudgeted receipts at the end of each fiscal year, beginning June 30,
28 2004, and shall deposit these receipts into the account. Funds in the account shall be used to
29 support a portion of ~~each museum's operation~~ the operation of each historic site and museum.
30 The Secretary may adopt rules necessary to carry out the provisions of this section. The
31 Department is exempt from the requirements of Chapter 150B of the General Statutes when
32 adopting, amending, or repealing rules for admission fees or related activity fees at historic
33 sites and museums. The Department shall ~~provide~~ submit a quarterly report to the Joint
34 Legislative Commission on Governmental Operations ~~as to the Department's or museums'~~
35 ~~anticipated use of funds or expenditures of funds pursuant to this section~~ on the amount and
36 purpose of a fee change within 30 days following its effective date."

37 SECTION 19.2.(b) G.S. 143B-71 reads as rewritten:

38 "§ 143B-71. Tryon Palace Commission – creation, powers and duties.

39 There is hereby created the Tryon Palace Commission of the Department of Cultural
40 Resources with the power and duty to adopt, amend and rescind rules and regulations
41 concerning the restoration and maintenance of the Tryon Palace complex, and such other
42 powers and duties as provided in Article 2 of Chapter 121 of the General Statutes of North
43 Carolina. The Commission is exempt from the requirements of Chapter 150B of the General
44 Statutes when adopting, amending, or repealing rules for admission fees or related activity fees
45 at Tryon Palace Historic Sites and Gardens. The Commission shall submit a report to the Joint
46 Legislative Commission on Governmental Operations on the amount and purpose of a fee
47 change within 30 days following its effective date."

1 **SECTION 19.2.(c)** G.S. 150B-1(d) is amended by adding the following new
2 subdivisions to read:

3 "(23) The Department of Cultural Resources with respect to admission fees or
4 related activity fees at historic sites and museums pursuant to G.S. 121-7.3.

5 (24) Tryon Palace Commission with respect to admission fees or related activity
6 fees pursuant to G.S. 143B-71."

7
8 **ALLOW MUSEUMS AND HISTORIC SITES TO GENERATE REVENUE FROM**
9 **VENDOR SERVICES**

10 **SECTION 19.3.(a)** Article 3 of Chapter 111 of the General Statutes is amended by
11 adding a new section to read:

12 "**§ 111-47.2. Food service at museums and historic sites operated by the Department of**
13 **Cultural Resources.**

14 Notwithstanding Article 3 of Chapter 111 of the General Statutes, the North Carolina
15 Department of Cultural Resources may operate or contract for the operation of food or vending
16 services at museums and historic sites operated by the Department. Notwithstanding
17 G.S. 111-43, the net proceeds of revenue generated by food and vending services provided at
18 museums and historic sites operated by the Department or a vendor with whom the Department
19 has contracted shall be credited to the appropriate fund of the museum or historic site where the
20 funds were generated and shall be used for the operation of that museum or historic site."

21 **SECTION 19.3.(b)** G.S. 111-47.2, as enacted by subsection (a) of this section,
22 shall not be construed to alter any contract for food or vending services at any museum or
23 historic site operated by the Department that is in force at the time this section becomes law.
24

25 **ALLOW EXEMPTION FOR HISTORIC SITES AND MUSEUMS ADMINISTERED**
26 **BY THE DEPARTMENT OF CULTURAL RESOURCES FROM THE**
27 **PROHIBITION OF THE SALE OF MERCHANDISE OR SERVICES BY**
28 **GOVERNMENTAL UNITS**

29 **SECTION 19.4.** G.S. 66-58 reads as rewritten:

30 "**§ 66-58. Sale of merchandise or services by governmental units.**

31 (a) Except as may be provided in this section, it shall be unlawful for any unit,
32 department or agency of the State government, or any division or subdivision of the unit,
33 department or agency, or any individual employee or employees of the unit, department or
34 agency in his, or her, or their capacity as employee or employees thereof, to engage directly or
35 indirectly in the sale of goods, wares or merchandise in competition with citizens of the State,
36 or to engage in the operation of restaurants, cafeterias or other eating places in any building
37 owned by or leased in the name of the State, or to maintain service establishments for the
38 rendering of services to the public ordinarily and customarily rendered by private enterprises,
39 or to provide transportation services, or to contract with any person, firm or corporation for the
40 operation or rendering of the businesses or services on behalf of the unit, department or agency,
41 or to purchase for or sell to any person, firm or corporation any article of merchandise in
42 competition with private enterprise. The leasing or subleasing of space in any building owned,
43 leased or operated by any unit, department or agency or division or subdivision thereof of the
44 State for the purpose of operating or rendering of any of the businesses or services herein
45 referred to is hereby prohibited.

46 (b) The provisions of subsection (a) of this section shall not apply to:

47 ...

48 (9b) The Department of Cultural Resources for the sale of books, crafts, gifts, and
49 other tourism-related items at historic sites and museums administered by
50 the Department.

51 "

MUSEUM OF ART CHALLENGE GRANT

SECTION 19.5.(a) Of the funds appropriated in this act to the Department of Cultural Resources for the North Carolina Museum of Art, the sum of one million dollars (\$1,000,000) in recurring funds shall be allocated to the Museum of Art as provided by this section.

SECTION 19.5.(b) It is the intent of the General Assembly that the Museum of Art raise non-State funds for the 2013-2014 fiscal year that exceed the non-State receipts collected in the 2012-2013 fiscal year by at least one million dollars (\$1,000,000). Receipts collected in the 2012-2013 fiscal year cannot be used as matching funds required by this section. The Museum of Art shall report to the Department of Cultural Resources by December 31, 2013, and June 30, 2014, on whether the funds required by this section were raised.

SECTION 19.5.(c) The Museum of Art shall receive allocations as follows:

- (1) On July 1, 2013, a sum of five hundred thousand dollars (\$500,000).
- (2) On January 1, 2014, a sum of five hundred thousand dollars (\$500,000), after demonstrating to the Department of Cultural Resources that it has raised at least a sum of five hundred thousand dollars (\$500,000) in non-State funds to match this allotment on a dollar-for-dollar basis.

TRYON PALACE HISTORIC SITES AND GARDENS CHALLENGE GRANT

SECTION 19.6.(a) Of the funds appropriated in this act to the Department of Cultural Resources for Tryon Palace Historic Sites and Gardens, the sum of four hundred seventy-six thousand seven hundred twenty-five dollars (\$476,725) in nonrecurring funds for the 2013-2014 fiscal year shall be allocated to Tryon Palace Historic Sites and Gardens in accordance with this section.

SECTION 19.6.(b) It is the intent of the General Assembly that Tryon Palace Historic Sites and Gardens raise non-State funds for the 2013-2014 fiscal year that exceed the non-State receipts collected in the 2012-2013 fiscal year by at least four hundred seventy-six thousand seven hundred twenty-five dollars (\$476,725). Receipts collected in the 2012-2013 fiscal year cannot be used as matching funds required by this section. Tryon Palace Historic Sites and Gardens shall report to the Department of Cultural Resources by December 31, 2013, and June 30, 2014, on whether the funds required by this section were raised.

SECTION 19.6.(c) Tryon Palace Historic Sites and Gardens shall receive allocations as follows:

- (1) On July 1, 2013, a sum of two hundred thirty-eight thousand three hundred sixty-two dollars and fifty cents (\$238,362.50).
- (2) On January 1, 2014, a sum of two hundred thirty-eight thousand three hundred sixty-two dollars and fifty cents (\$238,362.50), after demonstrating to the Department of Cultural Resources that it has raised at least a sum of two hundred thirty-eight thousand three hundred sixty-two dollars and fifty cents (\$238,362.50) in non-State funds to match this allotment on a dollar-for-dollar basis.

SECTION 19.6.(d) Non-State matching funds may come from any of the following: (i) friends support; (ii) corporate sponsorship; and (iii) rental income from weddings, corporate events, performances, movies, and photography.

ROANOKE ISLAND COMMISSION

SECTION 19.7.(a) G.S. 143B-131.1 reads as rewritten:

"§ 143B-131.1. Commission established.

There is established the Roanoke Island ~~Commission. The Commission shall be an independent, self-supporting commission, but shall be located~~Commission within the

1 Department of Cultural Resources for historic resource management, organizational, and
2 budgetary purposes. Resources. All of the prescribed powers, duties, and functions of the
3 Commission shall be performed under the direction and supervision of the Secretary of the
4 Department."

5 SECTION 19.7.(b) G.S. 143B-131.2(a) reads as rewritten:

6 "(a) The Commission is created to combine various existing entities in the spirit of
7 cooperation for a cohesive body to protect, preserve, develop, and interpret the historical and
8 cultural assets of Roanoke Island. The Commission is further created to operate and administer
9 the Elizabeth II State Historic Site and Visitor Center, the Elizabeth II, Ice Plant Island, and all
10 other properties under the administration of the Department of Cultural Resources located on
11 Roanoke Island having historical significance to the State of North Carolina, Dare County, or
12 the Town of Manteo, except as otherwise determined by the ~~Commission~~ Commission or the
13 Department."

14 PART XX. DEPARTMENT OF INSURANCE

15 CONSUMER PROTECTION FUND RETAINED AMOUNT

16 SECTION 20.1. G.S. 58-2-215 reads as rewritten:

17 "§ 58-2-215. Consumer Protection Fund.

18 ...

19 (c) Moneys appropriated by the General Assembly shall be deposited in the Fund and
20 shall become a part of the continuation budget of the Department of Insurance. Such
21 continuation budget amount shall equal the actual expenditures drawn from the Fund during the
22 prior fiscal year plus the official inflation rate designated by the Director of the Budget in the
23 preparation of the State Budget for each ensuing fiscal year; provided that if interest income on
24 the Fund exceeds the amount yielded by the application of the official inflation rate, such
25 continuation budget amount shall be the actual expenditures drawn from the Fund. In the event
26 the amount in the Fund exceeds ~~five hundred thousand dollars (\$500,000)~~ two hundred fifty
27 thousand dollars (\$250,000) at the end of any fiscal year, such excess shall revert to the General
28 Fund."

29 WORKERS' COMPENSATION FUND/ALLOCATION FOR VOLUNTEER SAFETY 30 WORKERS

31 SECTION 20.2.(a) G.S. 105-228.5(d)(3) reads as rewritten:

32 "(d) Tax Rates; Disposition. –

33 ...

34 (3) Additional Rate on Property Coverage Contracts. – An additional tax at the
35 rate of seventy-four hundredths percent (0.74%) applies to gross premiums
36 on insurance contracts for property coverage. The tax is imposed on ten
37 percent (10%) of the gross premiums from insurance contracts for
38 automobile physical damage coverage and on one hundred percent (100%)
39 of the gross premiums from all other contracts for property coverage. ~~Thirty~~
40 ~~percent (30%)~~ Twenty-five percent (25%) of the net proceeds of this
41 additional tax must be credited to the Volunteer Fire Department Fund
42 established in Article 87 of Chapter 58 of the General Statutes. ~~Twenty-five~~
43 ~~percent (25%)~~ Twenty percent (20%) of the net proceeds must be credited to
44 the Department of Insurance for disbursement pursuant to G.S. 58-84-25.
45 ~~The remaining net proceeds must be credited to the General Fund. Up to~~
46 ~~twenty percent (20%), as determined in accordance with G.S. 58-87-10(f),~~
47 must be credited to the Workers' Compensation Fund. The remaining net
48 proceeds must be credited to the General Fund.
49
50
51

1 The following definitions apply in this subdivision:

- 2 a. Automobile physical damage. – The following lines of business
3 identified by the NAIC: private passenger automobile physical
4 damage and commercial automobile physical damage.
5 b. Property coverage. – The following lines of business identified by
6 the NAIC: fire, farm owners multiple peril, homeowners multiple
7 peril, nonliability portion of commercial multiple peril, ocean
8 marine, inland marine, earthquake, private passenger automobile
9 physical damage, commercial automobile physical damage, aircraft,
10 and boiler and machinery. The term also includes insurance contracts
11 for wind damage.
12 c. NAIC. – National Association of Insurance Commissioners.

13"

14 **SECTION 20.2.(b)** G.S. 58-87-1 reads as rewritten:

15 **"§ 58-87-1. Volunteer Fire Department Fund.**

16 (a) Fund. – The Volunteer Fire Department Fund is created as an interest-bearing,
17 nonreverting fund in the Department to provide matching grants to volunteer fire departments
18 to purchase equipment and make capital improvements. The Commissioner shall administer the
19 Fund. Up to ~~two percent (2%)~~ one percent (1%) of the Fund may be used for additional staff and
20 resources to administer the Fund in each fiscal year.

21"

22 **SECTION 20.2.(c)** G.S. 58-84-25 reads as rewritten:

23 **"§ 58-84-25. Disbursement of funds by Insurance Commissioner.**

24 (a) Distribution. – The Insurance Commissioner shall deduct the sum of three percent
25 (3%) from the tax proceeds credited to the Department pursuant to G.S. 105-228.5(d)(3) and
26 pay the same over to the treasurer of the State Firemen's Association for general purposes. The
27 Insurance Commissioner shall deduct the sum of ~~two percent (2%)~~ one percent (1%) from the
28 tax proceeds and retain the same in the budget of the Department of Insurance for the purpose
29 of administering the disbursement of funds by the board of trustees in accordance with the
30 provisions of G.S. 58-84-35. The Insurance Commissioner shall, pursuant to G.S. 58-84-50,
31 credit the amount forfeited by nonmember fire districts to the North Carolina State Firemen's
32 Association. The Insurance Commissioner shall distribute the remaining tax proceeds to the
33 treasurer of each fire district as provided in subsections (b) and (c) of this section.

34"

35 **SECTION 20.2.(d)** G.S. 58-87-10 reads as rewritten:

36 **"§ 58-87-10. Workers' Compensation Fund for the benefit of volunteer safety workers.**

37 (a) Definition. – As used in this section, the term "eligible unit" means a volunteer fire
38 department or volunteer rescue/EMS unit that is not part of a unit of local government and is
39 exempt from State income tax under G.S. 105-130.11.

40 (b) Creation. – The Workers' Compensation Fund is created in the Department of
41 Insurance as an expendable trust fund. Accordingly, interest and other investment income
42 earned by the Fund accrues to it, and revenue in the Fund at the end of a fiscal year remains in
43 the Fund and does not revert.

44 (c) Use. – Revenue in the Workers' Compensation Fund shall be used to provide
45 workers' compensation benefits to members of eligible units. Chapter 97 of the General Statutes
46 governs the payment of benefits from the Fund. Benefits are payable for compensable injuries
47 or deaths that occur on or after July 1, 1996.

48 (d) Administration. – The State Fire and Rescue Commission, established under
49 G.S. 58-78-1, shall administer the Workers' Compensation Fund and shall perform this duty by
50 contracting with a third-party administrator. The contracting procedure is not subject to Article
51 3C of Chapter 143 of the General Statutes. The reasonable and necessary expenses incurred by

1 the Commission in administering the Fund shall be paid out of the Fund by the State Treasurer.
2 The Commission may adopt rules to implement this section.

3 (e) Revenue Source. – Revenue is credited to the Workers' Compensation Fund from
4 ~~appropriations made to the Department of Insurance for this purpose.~~ a portion of the proceeds
5 of the tax levied under G.S. 105-228.5(d)(3) and from an assessment on local governments
6 served by one or more eligible units as set forth in subsection (g) of this section. In addition,
7 every eligible unit that elects to participate shall pay into the Fund an amount set annually by
8 the State Fire and Rescue Commission to ensure that the Fund will be able to meet its payment
9 obligations under this section. The amount shall be set as a per capita fixed dollar amount for
10 each member of the roster of the eligible unit.

11 The payment shall be made to the State Fire and Rescue Commission on or before July 1 of
12 each year. The Commission shall remit the payments it receives to the State Treasurer, who
13 shall credit the payments to the Fund.

14 (f) Funding Study. – The Department of Insurance shall conduct a periodic actuarial
15 study to calculate the amount required to meet the needs of the Fund. The study shall be based
16 on premiums that are the greater of the premiums paid by members of the Fund for the fiscal
17 year to which the study applies or the premiums paid by members of the Fund in fiscal year
18 2012-2013. The study shall be reviewed by the Office of State Budget and Management. On or
19 before March 1 of each year, the Office of State Budget and Management, in consultation with
20 the Department of Insurance, must notify the Secretary of Revenue of the amount required to
21 meet the needs of the Fund, as determined by the study, for the upcoming fiscal year. The
22 Secretary of Revenue shall remit that amount, subject to the twenty percent (20%) limitation in
23 G.S. 105-228.5(d)(3), to the Fund.

24 (g) Assessment for Shortfall. – If the amount remitted to the Fund by the Secretary of
25 Revenue under subsection (f) of this section is insufficient to meet the needs of the Fund, the
26 Department of Insurance shall collect the remaining amount from units of local government by
27 multiplying the remaining amount needed by a fraction, the numerator of which is the number
28 of residents in the unit of government served by an eligible unit and the denominator of which
29 is the number of residents in the State served by all eligible units. The Department shall provide
30 written notification to the units of local government of the amount of the assessment no later
31 than April 1 of each year, and the unit of local government shall have 90 days to remit the
32 assessment to the Department for deposit into the Fund."

33 34 SET INSURANCE REGULATORY CHARGE

35 SECTION 20.3.(a) The percentage rate to be used in calculating the insurance
36 regulatory charge under G.S. 58-6-25 is six percent (6%) for the 2013 and 2014 calendar years.

37 SECTION 20.3.(b) This section is effective when it becomes law.
38

39 PART XXI. STATE BOARD OF ELECTIONS

40 41 ELIMINATE NORTH CAROLINA PUBLIC CAMPAIGN FUND

42 SECTION 21.1.(a) Article 22D of Chapter 163 of the General Statutes is repealed,
43 except that G.S. 163-278.69 is repealed effective upon exhaustion of the funds for publication
44 of the Judicial Voter Guide.

45 SECTION 21.1.(b) G.S. 84-34 reads as rewritten:

46 "§ 84-34. Membership fees and list of members.

47 Every active member of the North Carolina State Bar shall, prior to the first day of July of
48 each year, pay to the secretary-treasurer an annual membership fee in an amount determined by
49 the Council but not to exceed three hundred dollars (\$300.00), ~~plus a surcharge of fifty dollars~~
50 ~~(\$50.00) for the implementation of Article 22D of Chapter 163 of the General Statutes,~~ and
51 every member shall notify the secretary-treasurer of the member's correct mailing address. Any

1 member who fails to pay the required dues by the last day of June of each year shall be subject
2 to a late fee in an amount determined by the Council but not to exceed thirty dollars (\$30.00).
3 All dues for prior years shall be as were set forth in the General Statutes then in effect. The
4 membership fee shall be regarded as a service charge for the maintenance of the several
5 services authorized by this Article, and shall be in addition to all fees required in connection
6 with admissions to practice, and in addition to all license taxes required by law. The fee shall
7 not be prorated: Provided, that no fee shall be required of an attorney licensed after this Article
8 shall have gone into effect until the first day of January of the calendar year following that in
9 which the attorney was licensed; but this proviso shall not apply to attorneys from other states
10 admitted on certificate. The fees shall be disbursed by the secretary-treasurer on the order of the
11 Council. ~~The fifty dollar (\$50.00) surcharge shall be sent on a monthly schedule to the State~~
12 ~~Board of Elections.~~ The secretary-treasurer shall annually, at a time and in a law magazine or
13 daily newspaper to be prescribed by the Council, publish an account of the financial
14 transactions of the Council in a form to be prescribed by it. The secretary-treasurer shall
15 compile and keep currently correct from the names and mailing addresses forwarded to the
16 secretary-treasurer and from any other available sources of information a list of members of the
17 North Carolina State Bar and furnish to the clerk of the superior court in each county, not later
18 than the first day of October in each year, a list showing the name and address of each attorney
19 for that county who has not complied with the provisions of this Article. The name of each of
20 the active members who are in arrears in the payment of membership fees shall be furnished to
21 the presiding judge at the next term of the superior court after the first day of October of each
22 year, by the clerk of the superior court of each county wherein the member or members reside,
23 and the court shall thereupon take action that is necessary and proper. The names and addresses
24 of attorneys so certified shall be kept available to the public. The Secretary of Revenue is
25 hereby directed to supply the secretary-treasurer, from records of license tax payments, with
26 any information for which the secretary-treasurer may call in order to enable the
27 secretary-treasurer to comply with this requirement.

28 The list submitted to several clerks of the superior court shall also be submitted to the
29 Council at its October meeting of each year and it shall take the action thereon that is necessary
30 and proper."

31 **SECTION 21.1.(c)** G.S. 105-159.2 is repealed.

32 **SECTION 21.1.(d)** G.S. 163-278.5 reads as rewritten:

33 **"§ 163-278.5. Scope of Article; severability.**

34 The provisions of this Article apply to primaries and elections for North Carolina offices
35 and to North Carolina referenda and do not apply to primaries and elections for federal offices
36 or offices in other States or to non-North Carolina referenda. Any provision in this Article that
37 regulates a non-North Carolina entity does so only to the extent that the entity's actions affect
38 elections for North Carolina offices or North Carolina referenda.

39 The provisions of this Article are severable. If any provision is held invalid by a court of
40 competent jurisdiction, the invalidity does not affect other provisions of the Article that can be
41 given effect without the invalid provision.

42 This section applies to Articles 22B, ~~22D~~, ~~22E~~, ~~22F~~, 22G, 22H, 22J, and 22M of the
43 General Statutes to the same extent that it applies to this Article."

44 **SECTION 21.1.(e)** G.S. 163-278.13(e) reads as rewritten:

45 "(e) Except as provided in subsections ~~(e2)~~, ~~(e3)~~, ~~(e3)~~ and (e4) of this section, this section
46 shall not apply to any national, State, district or county executive committee of any political
47 party. For the purposes of this section only, the term "political party" means only those political
48 parties officially recognized under G.S. 163-96."

49 **SECTION 21.1.(f)** G.S. 163-278.13(e2) is repealed.

50 **SECTION 21.1.(g)** G.S. 163-278.23 reads as rewritten:

51 **"§ 163-278.23. Duties of Executive Director of Board.**

1 ...
2 This section applies to Articles 22B, ~~22D, 22E, 22F,~~ 22G, 22H, and 22M of the General
3 Statutes to the same extent that it applies to this Article."

4 **SECTION 21.1.(h)** G.S. 163-278.97 reads as rewritten:

5 **"§ 163-278.97. Voter-Owned Elections Fund established; sources of funding.**

6 ...
7 (c) Evaluation and Determination of Fund Amount. – By January 1, 2011, and every
8 four years thereafter, the ~~Board, in conjunction with the Advisory Council established under~~
9 ~~G.S. 163-278.68(b),~~ Board shall prepare and provide to the Joint Legislative Commission on
10 Governmental Operations of the General Assembly a report documenting, evaluating, and
11 making recommendations relating to the administration, implementation, and enforcement of
12 this Article. In its report, the Board shall set out the funds received to date and the expected
13 needs of the Fund during the next election cycle and make recommendations about the
14 feasibility of expanding its provisions to include other candidates for State office based on the
15 experience of this Article and the experience of similar programs in North Carolina and other
16 states. The Board shall also evaluate and make recommendations regarding how to address
17 activities that could undermine the purpose of this Article, including spending that appears to
18 target candidates but is not reached by regulation."

19 **SECTION 21.1.(i)** G.S. 163-278.99E(d) is repealed effective upon exhaustion of
20 the funds for publication of the Judicial Voter Guide in G.S. 163-278.69.

21 **SECTION 21.1.(j)** The State Board of Elections shall use the money in the North
22 Carolina Public Campaign Fund to only publish Judicial Voter Guides as described in
23 G.S. 163-278.69 until the funds have been exhausted.

24 **SECTION 21.1.(k)** The secretary-treasurer of the North Carolina State Bar shall
25 remit any payments of the fifty-dollar (\$50.00) surcharge payable for the taxable year January
26 1, 2013, to the State Board of Elections, and the State Board of Elections must credit the funds
27 received to the North Carolina Public Campaign Fund.

28 **SECTION 21.1.(l)** The State Board of Elections shall notify the Revisor of Statutes
29 when the funds have been exhausted for publication of the Judicial Voter Guide.

30 **SECTION 21.1.(m)** Subsection (c) of this section is effective for taxable years
31 beginning on or after January 1, 2013. The remainder of this section becomes effective July 1,
32 2013.

33 34 **PART XXII. GENERAL ASSEMBLY**

35 36 **DAILY BULLETIN**

37 **SECTION 22.1.** The North Carolina General Assembly shall discontinue the
38 interagency agreement with UNC School of Government for the production of the Daily
39 Bulletin. The General Assembly shall not employ temporary staff for this service. The UNC
40 School of Government may continue to use General Assembly facilities to publish the Daily
41 Bulletin and receive revenues from its publications.

42 43 **FOOD SERVICES**

44 **SECTION 22.2.(a)** The Legislative Services Commission shall issue a Request for
45 Information (RFI) to identify vendors that are interested in providing food services within the
46 General Assembly's buildings. The RFI shall include the following:

- 47 (1) Require that the vendor take over the operations of the General Assembly's
48 food services in the 2014-2015 fiscal year.
- 49 (2) Make available all existing restaurant wares to the vendor. All new
50 equipment costs and repairs would be borne by the vendor.

1 (3) Require a plan for services, including days and hours of operations and
2 number of food service outlets to be operational. The proposal of interest by
3 the vendor shall identify any additional cost that must be covered by the
4 General Assembly and any revenue sharing that may benefit the General
5 Assembly's budget.

6 (4) Provide the menu items that would be offered at the food service outlets.

7 The Legislative Services Commission shall review the proposals, hold interviews
8 with the vendors, and collect all of the necessary information to make a comprehensive report
9 to the General Assembly. If House Bill 153 of the 2013 General Assembly becomes law, the
10 Legislative Services Commission shall report the results of the RFI to the Joint Legislative
11 Oversight Committee on General Government by November 1, 2013.

12 **SECTION 22.2.(b)** The Food Services Section of the General Assembly's
13 Administrative Division may submit a proposal under subsection (a) of this section, and the
14 proposal shall be reviewed and evaluated in the same manner as proposals submitted by other
15 vendors.

16 17 **LIMIT STUDY COMMITTEE AUTHORIZATIONS**

18 **SECTION 22.3.** G.S. 120-19.6(a1) is repealed.

19 20 **CLARIFY GENERAL ASSEMBLY'S AUTHORITY TO MAKE REPAIRS**

21 **SECTION 22.4.** G.S. 120-32 reads as rewritten:

22 "**§ 120-32. Commission duties.**

23 The Legislative Services Commission is authorized to:

24 ...

25 (11) To specify the operating and capital uses within the General Assembly
26 budget of funds appropriated to the General Assembly which remain
27 available for expenditure after the end of the biennial fiscal period, and to
28 revert funds under G.S. 143C-1-2.

29"

30 31 **PART XXIII. OFFICE OF THE GOVERNOR**

32
33 **SECTION 23.0.** This section is reserved.

34 35 **PART XXIV. OFFICE OF STATE BUDGET AND MANAGEMENT**

36 37 **SYMPHONY CHALLENGE GRANT/OSBM-SPECIAL APPROPRIATIONS**

38 **SECTION 24.1.(a)** Of the funds appropriated in this act to the Office of State
39 Budget and Management-Special Appropriations, the sum of one million five hundred thousand
40 dollars (\$1,500,000) in nonrecurring funds for the 2013-2014 fiscal year and the sum of one
41 million five hundred thousand dollars (\$1,500,000) in nonrecurring funds for the 2014-2015
42 fiscal year shall be allocated to the North Carolina Symphony in accordance with this section. It
43 is the intent of the General Assembly that the North Carolina Symphony raise at least eight
44 million dollars (\$8,000,000) in non-State funds for the 2013-2014 fiscal year and at least eight
45 million dollars (\$8,000,000) in non-State funds for the 2014-2015 fiscal year. The NC
46 Symphony cannot use funds transferred from the organization's endowment to its operating
47 budget to achieve the fund-raising targets set out in subsections (b) and (c) of this section.

48 **SECTION 24.1.(b)** For the 2013-2014 fiscal year, the North Carolina Symphony
49 shall receive allocations from the Office of State Budget and Management as follows:

1 (1) Upon raising the initial sum of four million dollars (\$4,000,000) in non-State
2 funding, the NC Symphony shall receive the sum of five hundred thousand
3 dollars (\$500,000).

4 (2) Upon raising an additional sum of two million dollars (\$2,000,000) in
5 non-State funding for a total amount of six million dollars (\$6,000,000) in
6 non-State funds, the NC Symphony shall receive the sum of five hundred
7 thousand dollars (\$500,000).

8 (3) Upon raising an additional sum of two million dollars (\$2,000,000) in
9 non-State funding for a total sum of eight million dollars (\$8,000,000) in
10 non-State funds, the NC Symphony shall receive the final sum of five
11 hundred thousand dollars (\$500,000) in the 2013-2014 fiscal year.

12 **SECTION 24.1.(c)** For the 2014-2015 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 NC Symphony shall receive the sum of five hundred thousand
16 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 NC Symphony shall receive the sum of five hundred
20 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 NC Symphony shall receive the final sum of five
24 hundred thousand dollars (\$500,000) in the 2014-2015 fiscal year.

25 **SECTION 24.1.(d)** Of the funds appropriated in this act to the Office of State
26 Budget and Management-Special Appropriations, the sum of three hundred thousand dollars
27 (\$300,000) in nonrecurring funds for the 2013-2014 fiscal year shall be allocated to The Bridge
28 Downeast, Inc., a nonprofit organization, to purchase a facility to house activities for the youth
29 and senior citizens on Harkers Island and surrounding areas. If these funds are not used for the
30 purpose for which they were appropriated as of June 30, 2014, the funds shall revert to the
31 General Fund.

32 **PART XXV. OFFICE OF THE STATE AUDITOR**

33 **SECTION 25.0.** This section is reserved.

34 **PART XXVI. DEPARTMENT OF REVENUE**

35 **INCREASED FUNDING FOR REVENUE FOR TAX REFORM**

36 **SECTION 26.1.** If a bill creating personnel positions in the Department of
37 Revenue to implement a comprehensive change to the tax laws of the State passes during the
38 Regular Session of the 2013 General Assembly and is enacted into law, the Department of
39 Revenue shall use the sum of five million dollars (\$5,000,000) appropriated for the 2013-2014
40 fiscal year and the sum of five million dollars (\$5,000,000) appropriated for the 2014-2015
41 fiscal year to accomplish the provisions of that act.

42 **PART XXVII. DEPARTMENT OF THE SECRETARY OF STATE**

43 **ELECTRONIC SUBMISSION OF ALL DOCUMENTS, REPORTS, AND PAYMENTS 44 BY LOBBYISTS**

45 **SECTION 27.1.(a)** G.S. 120C-200 reads as rewritten:
46

1 **"§ 120C-200. Lobbyist registration procedure.**

2 ...
3 (b) The form of the registration shall be prescribed by the Secretary of ~~State~~State, be
4 filed electronically, and shall include the registrant's full name, firm, complete address, and
5 telephone number; the registrant's place of business; the full name, complete address, and
6 telephone number of each principal the lobbyist represents; and a general description of the
7 matters on which the registrant expects to act as a lobbyist.

8 (c) Each lobbyist shall electronically file an amended registration form with the
9 Secretary of State no later than 10 business days after any change in the information supplied in
10 the lobbyist's last registration under subsection (b) of this section. Each supplementary
11 registration shall include a complete statement of the information that has changed.

12"

13 **SECTION 27.1.(b)** G.S. 120C-201(a) reads as rewritten:

14 "(a) Except as provided for in subsection (b) of this section, a fee of one hundred dollars
15 (\$100.00) is due and payable to the Secretary of State at the time of each lobbyist registration.
16 Fees so collected shall be deposited in the General Fund of the State. The ~~Secretary of State~~
17 ~~shall allow~~ fees required under this section ~~to shall~~ be paid electronically ~~but shall not require~~
18 ~~the fees to be paid electronically.~~electronically."

19 **SECTION 27.1.(c)** G.S. 120C-206 reads as rewritten:

20 **"§ 120C-206. Lobbyist principal's authorization.**

21 ...
22 (b) The form of the written authorization shall be prescribed by the Secretary of
23 ~~State~~State, be filed electronically, and shall include the lobbyist principal's full name, complete
24 address, and telephone number, name and title of any official authorized to sign for the lobbyist
25 principal, and the name of each lobbyist registered to represent that principal.

26 (c) An amended authorization shall be electronically filed with the Secretary of State no
27 later than 10 business days after any change in the information on the principal's authorization.
28 Each supplementary authorization shall include a complete statement of the information that
29 has changed."

30 **SECTION 27.1.(d)** G.S. 120C-207(a) reads as rewritten:

31 "(a) Except as provided for in subsection (b) of this section, a fee of one hundred dollars
32 (\$100.00) is due and payable to the Secretary of State at the time the principal's first
33 authorization statement is filed each calendar year for a lobbyist. Fees so collected shall be
34 deposited in the General Fund of the State. The ~~Secretary of State shall allow~~ fees required
35 under this section ~~to shall~~ be paid electronically ~~but shall not require the fees to be paid~~
36 ~~electronically.~~electronically."

37 **SECTION 27.1.(e)** G.S. 120C-401(d) reads as rewritten:

38 "(d) Each report required by this Article shall be in the form prescribed by the Secretary
39 of ~~State, which may include electronic reports.~~State and filed electronically."

40 **SECTION 27.1.(f)** G.S. 120C-800(f) reads as rewritten:

41 "(f) Within 15 business days after the end of the quarter in which the reportable
42 expenditure was made, reports required by this section shall be filed electronically with the
43 Secretary of State in a ~~manner~~form prescribed by the Secretary of ~~State, which may include~~
44 ~~electronic reports.~~State. If the designated individual is required to file a statement of economic
45 interest under G.S. 138A-24, then that designated individual may opt to report any information
46 required by this section in the statement of economic interest."

47 **SECTION 27.1.(g)** This section becomes effective December 1, 2013, and applies
48 to all filings and payments due on or after that date.

49
50 **INCREASE REGISTRATION FEE FOR LOBBYIST/LOBBYIST PRINCIPAL**

51 **SECTION 27.2.(a)** G.S. 120C-201 reads as rewritten:

"§ 120C-201. Lobbyist's registration fee.

(a) ~~Except as provided for in subsection (b) of this section, a~~ fee of ~~one hundred dollars (\$100.00)~~ two hundred fifty dollars (\$250.00) is due and payable to the Secretary of State at the time of each lobbyist registration. Fees so collected shall be deposited in the General Fund of the State. The Secretary of State shall allow fees required under this section to be paid electronically but shall not require the fees to be paid electronically.

(b) ~~The Secretary of State shall adopt rules providing for a waiver or reduction of the fees required by this section for lobbyists registering to represent persons who have been granted nonprofit status under 26 U.S.C. § 501(c)(3)."~~

SECTION 27.2.(b) G.S. 120C-207 reads as rewritten:

"§ 120C-207. Lobbyist principal's fees.

(a) ~~Except as provided for in subsection (b) of this section, a~~ fee of ~~one hundred dollars (\$100.00)~~ two hundred fifty dollars (\$250.00) is due and payable to the Secretary of State at the time the principal's first authorization statement is filed each calendar year for a lobbyist. Fees so collected shall be deposited in the General Fund of the State. The Secretary of State shall allow fees required under this section to be paid electronically but shall not require the fees to be paid electronically.

(b) ~~The Secretary of State shall adopt rules providing for a waiver or reduction of the fees required by this section for lobbyist principals that have been granted nonprofit status under 26 U.S.C. § 501(c)(3)."~~

SECTION 27.2.(c) This section becomes effective July 1, 2013, and applies to registrations on or after that date.

PART XXVIII. OFFICE OF THE LIEUTENANT GOVERNOR

SECTION 28.0. This section is reserved.

PART XXIX. OFFICE OF THE STATE CONTROLLER**OVERPAYMENTS AUDIT**

SECTION 29.1.(a) During the 2013-2015 fiscal biennium, receipts generated by the collection of inadvertent overpayments by State agencies to vendors as a result of pricing errors, neglected rebates and discounts, miscalculated freight charges, unclaimed refunds, erroneously paid excise taxes, and related errors are to be deposited in Special Reserve Account 24172 as required by G.S. 147-86.22(c).

SECTION 29.1.(b) For each year of the 2013-2015 fiscal biennium, five hundred thousand dollars (\$500,000) of the funds in the Special Reserve Account 24172 shall be used by the Office of the State Controller for data processing, debt collection, or e-commerce costs and are hereby appropriated for that purpose.

SECTION 29.1.(c) All funds available in Special Reserve Account 24172 on June 30 of each year of the 2013-2015 fiscal biennium shall revert to the General Fund on that date.

SECTION 29.1.(d) The State Controller shall report quarterly to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the revenue deposited into Special Reserve Account 24172 and the disbursement of that revenue.

PART XXX. DEPARTMENT OF ADMINISTRATION**ELIMINATE YOUTH ADVOCACY AND INVOLVEMENT OFFICE, YOUTH ADVISORY COUNCIL, STATE YOUTH COUNCIL, AND NC INTERNSHIP COUNCIL**

1 **SECTION 30.1.(a)** The Youth Advocacy and Involvement Office in the
2 Department of Administration is eliminated.

3 **SECTION 30.1.(b)** Parts 7 and 18 of Article 9 of Chapter 143B of the General
4 Statutes, being G.S. 143B-385 through G.S. 143B-388 and G.S. 143B-417 through
5 G.S. 143B-419, are repealed.

6 **SECTION 30.1.(c)** G.S. 7B-1402 reads as rewritten:

7 **"§ 7B-1402. Task Force – creation; membership; vacancies.**

8 (a) There is created the North Carolina Child Fatality Task Force within the Department
9 of Health and Human Services for budgetary purposes only.

10 (b) The Task Force shall be composed of ~~35~~34 members, ~~11~~10 of whom shall be ex
11 officio members, four of whom shall be appointed by the Governor, 10 of whom shall be
12 appointed by the Speaker of the House of Representatives, and 10 of whom shall be appointed
13 by the President Pro Tempore of the Senate. The ex officio members other than the Chief
14 Medical Examiner shall be nonvoting members and may designate representatives from their
15 particular departments, divisions, or offices to represent them on the Task Force. The members
16 shall be as follows:

17 ...

18 ~~(6) The Director of the Governor's Youth Advocacy and Involvement Office;~~

19 "

20 **SECTION 30.1.(d)** G.S. 143B-846 reads as rewritten:

21 **"§ 143B-846. Creation; method of appointment; membership; chair and vice-chair.**

22 (a) As a prerequisite for a county receiving funding for juvenile court services and
23 delinquency prevention programs, the board of commissioners of a county shall appoint a
24 Juvenile Crime Prevention Council. Each County Council is a continuation of the
25 corresponding Council created under G.S. 147-33.61. The County Council shall consist of not
26 more than ~~26~~24 members and should include, if possible, the following:

27 ...

28 ~~(12) Two persons under the age of 18 years, one of whom is a member of the~~
29 ~~State Youth Council;~~

30 "

31 **SECTION 30.1.(e)** Any funds remaining in the North Carolina Youth Advocacy
32 and Involvement Fund as of June 30, 2013, shall be returned to any person entitled to be
33 reimbursed for registration fees, gifts, donations, or contributions that were made to or for the
34 North Carolina Youth Legislative Assembly (YLA) and the North Carolina Students Against
35 Destructive Decisions (SADD).

37 **ELIMINATE DISPLACED HOMEMAKERS PROGRAM/FUND**

38 **SECTION 30.2.(a)** G.S. 7A-305(a2) reads as rewritten:

39 "(a2) In every action for absolute divorce filed in the district court, a cost of seventy-five
40 dollars (\$75.00) shall be assessed against the person filing the divorce action. Costs collected
41 by the clerk pursuant to this subsection shall be remitted to the State Treasurer, who shall
42 deposit ~~fifty five dollars (\$55.00) to the North Carolina Fund for Displaced Homemakers~~
43 ~~established under G.S. 143B-394.10 and twenty dollars (\$20.00)~~seventy-five dollars (\$75.00)
44 to the Domestic Violence Center Fund established under G.S. 50B-9. Costs assessed under this
45 subsection shall be in addition to any other costs assessed under this section."

46 **SECTION 30.2.(b)** G.S. 143B-393 reads as rewritten:

47 **"§ 143B-393. North Carolina Council for Women – creation; powers and duties.**

48 There is hereby created the North Carolina Council for Women of the Department of
49 Administration. The North Carolina Council for Women shall have the following functions and
50 duties:

- 1 (1) To advise the Governor, the principal State departments, and the State
2 legislature concerning the education and employment of women in the State
3 of North Carolina; ~~and Carolina.~~
- 4 (2) To advise the Secretary of Administration upon any matter the Secretary
5 may refer to it; ~~and the Council.~~
- 6 (3) ~~To establish programs for the assistance of displaced homemakers as set
7 forth in Part 10B of this Article."~~

8 **SECTION 30.2.(c)** Part 10B of Article 9 of Chapter 143B of the General Statutes
9 is repealed.

10 **SECTION 30.2.(d)** All unencumbered funds as of June 30, 2013, in the North
11 Carolina Fund for Displaced Homemakers shall be transferred to the Domestic Violence Center
12 Fund established under G.S. 50B-9.

13 **REPEAL STATEWIDE CAPITAL RESERVE**

14 **SECTION 30.3.** Section 20.4 of S.L. 2011-145 is repealed. Any funds remaining
15 in the reserve established pursuant to that section shall be transferred to the capital project
16 account associated with the capital project for which they were initially appropriated.

17 **BIENNIAL REVIEW OF STATEMENTS OF ECONOMIC INTEREST BY SEC**

18 **SECTION 30.4.(a)** G.S. 138A-10(a)(4) reads as rewritten:

19 **"§ 138A-10. Powers and duties.**

20 (a) In addition to other powers and duties specified in this Chapter, the Commission
21 shall:

22 ...

- 23 (4) Receive and review all statements of economic ~~interests~~ interest filed with
24 the Commission by prospective and actual covered ~~persons and persons as~~
25 provided in G.S. 138A-28. evaluate whether (i) the statements conform to
26 the law and the rules of the Commission, and (ii) the financial interests and
27 other information reported reveals actual or potential conflicts of
28 interest. Pursuant to G.S. 138A-24(e), this subdivision does not apply to
29 statements of economic interest of legislators and judicial officers."

30 **SECTION 30.4.(b)** Article 3 of Chapter 138A of the General Statutes is amended
31 by adding a new section to read:

32 **"§ 138A-28. Review and evaluation of statements of economic interest.**

33 (a) The Commission shall receive and review all statements of economic interest
34 pursuant to G.S. 138A-10(a)(4) and shall evaluate whether (i) the statements conform to the
35 law and the rules of the Commission, and (ii) the financial interests and other information
36 reported by prospective and actual covered persons reveal actual or potential conflicts of
37 interest.

38 (b) Beginning July 1, 2013, the Commission shall establish a biennial cycle for
39 evaluating statements of economic interest. The Commission shall evaluate each initial filing as
40 provided in subsection (a) of this section.

41 (c) Notwithstanding subsection (b) of this section, statements filed by the following
42 prospective and actual public servants shall be evaluated on an annual basis:

- 43 (1) The University of North Carolina Board of Governors, subject to
44 G.S. 138A-24(f).
- 45 (2) The State Board of Community Colleges, subject to G.S. 138A-24(f).
- 46 (3) The North Carolina Utilities Commission.
- 47 (4) The North Carolina Industrial Commission.
- 48 (5) Supplemental statements filed pursuant to Chapter 136 of the General
49 Statutes.

1 (6) Any other board or commission whose members are elected or confirmed by
2 the General Assembly.

3 (d) Notwithstanding subsections (a) and (b) of this section, statements of economic
4 interest filed by Constitutional officers of the State and individuals elected or appointed as
5 Constitutional officers of the State prior to taking office shall be evaluated every four years
6 upon election or appointment to office.

7 (e) A public servant who simultaneously serves on more than one covered board may
8 file one statement of economic interest and that statement shall serve as disclosure for all the
9 covered boards. If, during the biennial cycle, a public servant leaves one covered board and
10 begins membership on another covered board, the public servant is not required to file another
11 statement of economic interest, and the Commission is not required to evaluate the statement
12 again in light of the subsequent appointment. The public servant must make subsequent filings
13 pursuant to G.S. 138A-22(a) upon the expiration of the biennial cycle.

14 (f) Nothing in this section shall be construed to impair the Commission's duties and
15 authority under G.S. 138A-25 and G.S. 138A-26."

17 **USE OF E-COMMERCE FUNDS FOR PURCHASE AND CONTRACT OPERATIONS**

18 **SECTION 30.5.** Notwithstanding the provisions of G.S. 66-58.12(c), the sum of
19 one million two hundred eighteen thousand six hundred fifty-nine dollars (\$1,218,659) for the
20 2013-2014 fiscal year and the sum of one million four hundred seventy-six thousand five
21 hundred forty-three dollars (\$1,476,543) for the 2014-2015 fiscal year shall be transferred from
22 the E-Commerce Fund in the Department of Administration Budget Code 24100, Fund 2514, to
23 be used for each year of the 2013-2015 biennium, on a recurring basis, to pay the operating
24 expenses of the Division of Purchase and Contract.

26 **STUDY/E-PROCUREMENT FEE & VENDOR CONTRACT**

27 **SECTION 30.6.(a)** The Department of Administration shall study the feasibility of
28 reducing or eliminating the e-commerce fee authorized under G.S. 66-58.12(b). The
29 e-commerce fee supports the E-Procurement System operated by the Department. By February
30 1, 2014, the Department shall report its findings to the Senate Appropriations Committee on
31 General Government and Information Technology, House of Representatives Appropriations
32 Subcommittee on General Government, Joint Legislative Committee on Information
33 Technology, and Office of State Budget and Management. The report shall include the
34 following:

- 35 (1) The current rate of the fee and how it was calculated.
- 36 (2) The current revenue generated from the fee by departmental users.
- 37 (3) The current breakeven point for the operation of the E-Procurement System.
- 38 (4) The requirements for the operation and administration of the E-Procurement
39 System, including the term of any contract with an outside vendor for the
40 management of the E-Procurement System.
- 41 (5) Total payments to vendors since the initiation of the E-Procurement System.
- 42 (6) Total State receipts since the initiation of the E-Procurement System.
- 43 (7) Information on E-Procurement Systems currently in operation in other states
44 and within North Carolina, including an analysis of the advantages and
45 disadvantages of each.
- 46 (8) The feasibility and cost of utilizing E-Procurement Systems under
47 management by any State institution.
- 48 (9) The feasibility of eliminating the fee supporting the E-Procurement System,
49 E-Commerce Fund (2514), and moving the administration of the
50 E-Procurement System to General Fund Support, including any cost savings

1 to agencies as a result of vendors not assessing the fee on goods purchased
2 through the System.

3 (10) The feasibility of reducing the fee by assessing the fee on goods and services
4 only.

5 (11) The potential for savings from training State employees to operate and
6 maintain the System.

7 **SECTION 30.6.(b)** If the contract with an outside vendor operating the
8 E-Procurement System expires during the 2013-2015 biennium, the Department of
9 Administration, under the supervision of the Enterprise Project Management Office and the
10 Statewide Information Technology Procurement Office, shall issue a request for proposals and
11 select a vendor through open competition. Any new contract shall comply with all State
12 information technology procurement requirements, including G.S. 143-135.9, and shall include
13 a requirement that the project be hosted on State infrastructure.
14

15 **ELIMINATE AUTHORITY FOR STATE CONTRIBUTION TO COUNTY VETERANS** 16 **SERVICE PROGRAMS**

17 **SECTION 30.7.(a)** G.S. 165-6(9) is repealed.

18 **SECTION 30.7.(b)** This section becomes effective July 1, 2014.
19

20 **PART XXXI. HOUSING FINANCE AGENCY**

21
22 **SECTION 31.0.** This section is reserved.
23

24 **PART XXXII. OFFICE OF ADMINISTRATIVE HEARINGS**

25
26 **SECTION 32.0.** This section is reserved.
27

28 **PART XXXIII. DEPARTMENT OF THE STATE TREASURER**

29
30 **SECTION 33.0.** This section is reserved.
31

32 **PART XXXIV. DEPARTMENT OF TRANSPORTATION**

33 **CASH FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATION**

34 **SECTION 34.1.(a)** The General Assembly authorizes and certifies anticipated
35 revenues for the Highway Fund as follows:
36

37 For Fiscal Year 2015-2016 \$1,946.7 million

38 For Fiscal Year 2016-2017 \$2,027.6 million

39 For Fiscal Year 2017-2018 \$2,103.3 million

40 For Fiscal Year 2018-2019 \$2,140.4 million

41 **SECTION 34.1.(b)** The General Assembly authorizes and certifies anticipated
42 revenues for the Highway Trust Fund as follows:

43 For Fiscal Year 2015-2016 \$1,160.3 million

44 For Fiscal Year 2016-2017 \$1,215.2 million

45 For Fiscal Year 2017-2018 \$1,256 million

46 For Fiscal Year 2018-2019 \$1,283.7 million
47

48 **INCREASE DOT PRIVATIZATION**

49 **SECTION 34.2.** The Department of Transportation shall seek to increase the use of
50 contracts to further privatize preconstruction work where practical, economical, and likely to

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 sixty percent (60%) of the
5 total cost of activities performed by those units in each fiscal year, excluding
6 the cost of activities performed by the Turnpike Authority, the Structures
7 Design and Management unit, and the Bridge Program.
- 8 (2) The Right-of-Way, Project Development and Environmental Analysis and
9 Roadway Design units shall increase the total cost of outsourced activity by
10 five percent (5%) in fiscal year 2013-2014 and by an additional five percent
11 (5%) in fiscal year 2014-2015, from a baseline of fiscal year 2012-2013
12 actual expenditures for those units.

13 14 **SYSTEM PRESERVATION FUNDS PREFERENCE FOR DEFICIENT BRIDGES**

15 **SECTION 34.3.** The funds allocated to the system preservation program (fund
16 center 84210-7839) for fiscal years 2013-2014 and 2014-2015 shall be used for improvements
17 to structurally deficient and functionally obsolete bridges.

18 19 **CONTINGENCY FUND**

20 **SECTION 34.4.(a)** Of the funds appropriated in this act to the Department of
21 Transportation, the sum of twelve million dollars (\$12,000,000) shall be allocated statewide in
22 each fiscal year for rural or small urban highway improvements and related transportation
23 enhancements to public roads and public facilities, industrial access roads, and spot safety
24 projects, including pedestrian walkways that enhance highway safety. Projects funded pursuant
25 to this subsection shall be approved by the Secretary of Transportation. None of these funds
26 used for rural secondary road improvements during the 2013-2014 fiscal year are subject to the
27 county allocation formulas in G.S. 136-44.5(b).

28 **SECTION 34.4.(b)** The Department of Transportation shall report to the members
29 of the General Assembly on projects funded pursuant to this section in each member's district
30 prior to construction. The Department shall make a quarterly comprehensive report on the use
31 of these funds to the Joint Legislative Transportation Oversight Committee and the Fiscal
32 Research Division.

33 **SECTION 34.4.(c)** The sum of twenty-eight million dollars (\$28,000,000) of the
34 unallotted and unexpended balance of funds within the Contingency Fund (fund center
35 1500/157818) shall be transferred to the Highway Fund as appropriated and allocated by this
36 act.

37 38 **ELIMINATE DIVISION SMALL URBAN CONSTRUCTION PROGRAM**

39 **SECTION 34.5.** The sum of twenty-five million dollars (\$25,000,000) of the
40 unallotted and unexpended balance of funds within the Division Small Urban Construction
41 Program (fund center 1500/157837) shall be transferred to the Highway Fund as appropriated
42 and allocated by this act. The Division Small Urban Construction Program shall be eliminated
43 after all funds allotted as of June 30, 2013, have been expended. The remaining unallotted and
44 unexpended balance of funds shall be transferred to the Reserve for General Maintenance (fund
45 center 1500/150934).

46 47 **ACCESS AND PUBLIC SERVICE ROAD FUNDS**

48 **SECTION 34.6.** The sum of three million dollars (\$3,000,000) of the unallotted
49 and unexpended balance of funds within the Access and Public Service Road program (fund
50 center 1500/157814) shall be transferred to the Highway Fund as appropriated and allocated by
51 this act.

ECONOMIC DEVELOPMENT PROGRAM FUNDS

SECTION 34.7. The sum of three million one hundred thousand dollars (\$3,100,000) of the unallotted and unexpended balance of funds within the Economic Development fund (fund center 1500/157838) shall be transferred to the Highway Fund as appropriated and allocated by this act. Funds appropriated to the Economic Development fund shall be used for prioritized highway improvements and infrastructure that support safety and mobility initiatives. Projects funded under this section shall be jointly approved by the Secretary of Transportation and the Secretary of Commerce.

CONGESTION AND MOBILITY REPORTING

SECTION 34.8. G.S. 136-44.3 reads as rewritten:

"§ 136-44.3. Maintenance program.

The Department shall establish performance standards for the maintenance and operation of the State highway system. In each even-numbered year, the Department of Transportation shall survey the condition of the State highway system and shall prepare a report of the findings of the survey. The report shall provide both quantitative and qualitative descriptions of the condition of the system and shall provide estimates of the following:

- (1) The annual cost to meet and sustain the established performance standards for the primary and secondary highway system, to include: (i) routine maintenance and operations, (ii) system preservation, and (iii) pavement and bridge rehabilitation.
- (2) Projected system condition and corresponding optimal funding requirements for a seven-year plan to sustain established performance standards.
- (3) Any significant variations in system conditions among highway divisions.
- (4) An assessment of the level of congestion throughout the primary highway system based on traffic data, and a ranking of the most congested areas based on travel time reliability and the average number of congested hours, together with the Department's recommendations for congestion reduction and mobility improvement.

On the basis of the report and from funds available, the Department of Transportation shall develop a statewide annual maintenance program for the State highway system, which shall be subject to the approval of the Board of Transportation and is consistent with performance standards.

The report on the condition of the State highway system and maintenance funding needs shall be presented to the Joint Legislative Transportation Oversight Committee by December 31 of each even-numbered year, and copies shall be made available to any member of the General Assembly upon request."

REPEAL INTERMODAL CONTINUING APPROPRIATIONS

SECTION 34.9. The following statutes are repealed:

- (1) G.S. 136-16.4.
- (2) G.S. 136-16.5.
- (3) G.S. 136-16.7.
- (4) G.S. 136-16.8.
- (5) G.S. 136-16.9.

FLEXIBLE USE OF FUNDS TO LEVERAGE FEDERAL FUNDS FOR RURAL AND HUMAN SERVICE PUBLIC TRANSPORTATION

SECTION 34.10. In order to ensure maximum funding and to facilitate the use of funds available to the Department, the Department of Transportation, Public Transportation

1 Division, shall have the flexibility to redistribute funding from the "rural capital" grant program
2 and within the "urban technology, human service transportation management, and rural general
3 public" grant program in order to leverage all eligible federal funds for operating assistance to
4 rural and human service transportation systems. The distribution of funds to these systems shall
5 be based on assessed system needs. This section applies only to the 2013-2015 fiscal biennium.
6

7 **MAXIMIZE LEVERAGE OF FEDERAL PUBLIC TRANSPORTATION OPERATING** 8 **AND CAPITAL FUNDS FOR LOCAL PUBLIC TRANSPORTATION SYSTEMS**

9 **SECTION 34.11.** The Department of Transportation, Public Transportation
10 Division, shall provide local public transportation systems with maximum flexibility to use
11 State operating funds from the "urban and regional maintenance" and "urban technology,
12 human service transportation management, and rural general public" grant programs to leverage
13 all eligible federal transit operating assistance funds. This section applies only to the 2013-2015
14 fiscal biennium.
15

16 **GRANT FLEXIBILITY FOR BICYCLE AND PEDESTRIAN IMPROVEMENTS**

17 **SECTION 34.12.** The Department of Transportation, Division of Bicycle and
18 Pedestrian Transportation, may redistribute funds appropriated to the Regional Bicycle
19 Planning Grant program to the Municipal Planning Grant program to award grants to
20 municipalities based on assessed need and the extent to which the Division finds that the
21 municipality's application for grant funding fulfills applicable selection criteria.
22

23 **UNIFORM FERRY TOLLING**

24 **SECTION 34.13.(a)** Notwithstanding the date set forth in Section 24.18(b) of S.L.
25 2012-142, as rewritten by Section 6.2 of S.L. 2012-145, by which the Department of
26 Transportation is required to collect tolls based on the March 2012 amendment to
27 19 NCAC 02D .0532, the Department shall collect tolls as set forth in this section, beginning
28 on November 1, 2013. Prior to November 1, 2013, the Department shall collect tolls on the
29 same routes and in the same manner as it did prior to the March 2012 amendment to
30 19 NCAC 02D .0532.

31 **SECTION 34.13.(b)** G.S. 136-82 reads as rewritten:

32 **"§ 136-82. Department of Transportation to establish and maintain ferries.**

33 The Department of Transportation is vested with authority to provide for the establishment
34 and maintenance of ferries connecting the parts of the State highway system, whenever in its
35 discretion the public good may ~~so require, require,~~ and shall collect tolls, as established by the
36 Board of Transportation, on the ferry routes. ~~The Board of Transportation shall establish tolls~~
37 ~~for all ferry routes, except for the Ocracoke/Hatteras Ferry and the Knotts Island Ferry. The~~
38 establishment of tolls pursuant to the authority granted in this section shall be exempt from the
39 provisions of Chapter 150B of the General Statutes. Identifying information obtained by the
40 Department related to operation of the ferry system is not a public record under Chapter 132 of
41 the General Statutes and is subject to the disclosure limitations in 18 U.S.C. § 2721 of the
42 federal Driver's Privacy Protection Act. The Department shall maintain the confidentiality of all
43 information required to be kept confidential under 18 U.S.C. § 2721(a), as well as any financial
44 information, transaction history, and information related to the collection of a toll or user fee
45 from a person, including, but not limited to, photographs or other recorded images or automatic
46 vehicle identification or driver account information generated by radio-frequency identification
47 or other electronic means. The Department may use identifying information only for purposes
48 of collecting and enforcing tolls. Nothing in this section is intended to limit the right of any
49 person to examine that person's own account information, or the right of any party, by authority
50 of a proper court order, to inspect and examine identifying information.

1 The Department of Transportation shall credit the proceeds from tolls collected on North
2 Carolina Ferry System routes to reserve accounts within the Highway Fund for each of the
3 Highway Divisions in which system terminals are located and fares are earned. For the
4 purposes of this subsection, fares are earned based on the terminal from which a passenger trip
5 originates or at which fares are collected. Commuter pass receipts shall be credited
6 proportionately to each reserve account based on the distribution of trips originating in each
7 Highway Division. The proceeds credited to each reserve account shall be used exclusively for
8 prioritized capital improvements to the North Carolina Ferry System in the Division in which
9 the proceeds are earned and may be used to supplement funds allocated for projects approved
10 as part of the Transportation Improvement Program.

11 To accomplish the purpose of this ~~section~~ ~~said~~ ~~section~~, the Department of Transportation is
12 authorized to acquire, own, lease, charter or otherwise control all necessary vessels, boats,
13 terminals or other facilities required for the proper operation of ~~such~~ ~~the~~ ferries or to enter into
14 contracts with persons, firms or corporations for the operation thereof and to pay ~~therefor~~
15 ~~such~~ ~~the~~ reasonable sums ~~as may~~ ~~that~~ in the opinion of ~~said~~ ~~the~~ Department of Transportation
16 represent the fair value of the public service rendered.

17 The Department of Transportation, notwithstanding any other provision of law, may
18 operate, or contract for the operation of, concessions on the ferries and at ferry facilities to
19 provide to passengers on the ferries food, drink, and other refreshments, personal comfort
20 items, and souvenirs publicizing the ferry system."

21 **SECTION 34.13.(c)** G.S. 136-82, as rewritten by subsection (b) of this section,
22 reads as rewritten:

23 **"§ 136-82. Department of Transportation to establish and maintain ferries.**

24 The Department of Transportation is vested with authority to provide for the establishment
25 and maintenance of ferries connecting the parts of the State highway system, whenever in its
26 discretion the public good may require, and shall collect tolls, as established by the Board of
27 Transportation, on the ferry routes. The Board of Transportation shall establish tolls for all
28 ferry routes, and the Department of Transportation shall collect the tolls. The establishment of
29 tolls under the authority granted in this section shall be exempt from the provisions of Chapter
30 150B of the General Statutes. Identifying information obtained by the Department related to the
31 collection of tolls, or the issuance of commuter passes or fare waivers is not a public record
32 under Chapter 132 of the General Statutes and is subject to the disclosure limitations in 18
33 U.S.C. § 2721, the federal Driver's Privacy Protection Act. The Authority shall maintain the
34 confidentiality of all information required to be kept confidential under 18 U.S.C. § 2721(a), as
35 well as any financial information, transaction history, and information related to the collection
36 of a toll or issuance of a commuter pass or fare waiver from a person, including, but not limited
37 to, photographs or other recorded images or automatic vehicle identification or driver account
38 information generated by radio-frequency identification or other electronic means. The
39 Department may use identifying information only for purposes of collecting and enforcing
40 tolls. Nothing in this section is intended to limit the right of any person to examine that person's
41 own account information, or the right of any party, by authority of a proper court order, to
42 inspect and examine identifying information.

43 The Department of Transportation shall credit the proceeds from tolls collected on
44 North Carolina Ferry System routes to reserve accounts within the Highway Fund for each of
45 the Highway Divisions in which system terminals are located and fares are earned. For the
46 purposes of this subsection, fares are earned based on the terminal from which a passenger trip
47 originates or at which fares are collected. Commuter pass receipts shall be credited
48 proportionately to each reserve account based on the distribution of trips originating in each
49 Highway Division. The proceeds credited to each reserve account shall be used exclusively for
50 prioritized capital improvements to the North Carolina Ferry System in the Division in which

1 the proceeds are earned, and may be used to supplement funds allocated for projects approved
2 as part of the Transportation Improvement Program.

3 To accomplish the purpose of this section the Department of Transportation is authorized to
4 acquire, own, lease, charter or otherwise control all necessary vessels, boats, terminals or other
5 facilities required for the proper operation of the ferries or to enter into contracts with persons,
6 firms or corporations for the operation thereof and to pay the reasonable sums that in the
7 opinion of said Department of Transportation represent the fair value of the public service
8 rendered.

9 The Department of Transportation, notwithstanding any other provision of law, may
10 operate, or contract for the operation of, concessions on the ferries and at ferry facilities to
11 provide to passengers on the ferries food, drink, and other refreshments, personal comfort
12 items, and souvenirs publicizing the ferry system."

13 **SECTION 34.13.(d)** In establishing tolls for ferry routes under G.S. 136-82, as
14 amended by this section, the Board of Transportation shall consider the needs of commuters
15 and other frequent passengers.

16 **SECTION 34.13.(e)** The Board of Transportation shall set the fares required by
17 this section such that projected annual gross toll revenue is at least five million dollars
18 (\$5,000,000) but does not exceed ten million dollars (\$10,000,000).

19 **SECTION 34.13.(f)** Subsection (c) of this section becomes effective November 1,
20 2013.

21 22 **NORTH CAROLINA RAILROAD COMPANY REPORTING AND DIVIDENDS**

23 **SECTION 34.14.(a)** Reporting and Oversight. – G.S. 124-1 reads as rewritten:

24 **"§ 124-1. Control of internal improvements.**

25 The Governor and Council of State shall have charge of all the State's interest in all
26 railroads, canals and other works of internal improvements. The Board of Directors of a
27 State-owned railroad company shall be responsible for managing its affairs and for reporting as
28 set forth in ~~G.S. 124-3-G.S. 124-17.~~"

29 **SECTION 34.14.(b)** Article 2 of Chapter 124 of the General Statutes is amended
30 by adding a new section, G.S. 124-15. G.S. 124-6(b), as amended by Section 3.3(a) of S.L.
31 1999-431, is recodified as G.S. 124-15(a). G.S. 124-5(b) is recodified as G.S. 124-15(b).
32 G.S. 124-15, as enacted and amended by this subsection, reads as rewritten:

33 **"§ 124-15. Board of directors; appointment and approval of encumbrances.**

34 (a) Notwithstanding subsection (a) of ~~this section-G.S. 124-6,~~ for any State-owned
35 railroad company organized as a corporation in which the State is the owner of all the voting
36 stock and which that has trackage in more than two counties, seven of the members of the Board
37 of Directors shall be appointed by the Governor, three of the members of the Board of
38 Directors shall be appointed by the General Assembly upon the recommendation of the Speaker
39 of the House of Representatives in accordance with G.S. 120-121, and three of the members of
40 the Board of Directors shall be appointed by the General Assembly upon the recommendation
41 of the President Pro Tempore of the Senate in accordance with G.S. 120-121. The Board of
42 Directors shall consist of 13 members. Of the Governor's seven appointments, one shall be
43 from the appointees to the Board of Transportation, and one shall be the Secretary of
44 Commerce or the Secretary's designee. Of the initial members appointed by the Governor, three
45 shall be appointed for terms of four years and four shall be appointed for terms of two years. Of
46 the initial members recommended to the General Assembly by the Speaker of the House of
47 Representatives, two shall be appointed for terms of four years and one shall be appointed for a
48 term of two years. Of the initial members recommended to the General Assembly by the
49 President Pro Tempore of the Senate, two shall be appointed for terms of four years and one
50 shall be appointed for a term of two years. Thereafter all Board members shall serve four-year
51 terms. The Board shall elect the chairman from among its membership.

1 (b) No State-owned railroad company shall sell, lease, mortgage, or otherwise
2 encumber its franchise, right-of-way, or other property, except by and with the approval and
3 consent of the Board of Directors of that corporation. The president or other chief officer of the
4 State-owned railroad company shall report any acquisitions and dispositions in accordance with
5 G.S. 124-3(10)."

6 **SECTION 34.14.(c)** Article 2 of Chapter 124 of the General Statutes is amended
7 by adding a new section to read as follows:

8 **"§ 124-16. Strategic plan and capital investment plan required of State-owned railroad**
9 **company; performance management system.**

10 (a) Any State-owned railroad company shall prepare and maintain a comprehensive
11 strategic plan and a capital investment plan. The strategic plan shall include a mission
12 statement describing the purpose of the company and clear goals that address the strategic
13 issues facing the company.

14 (b) Any State-owned railroad company shall develop and implement a formalized
15 performance management system based on its strategic plan. The performance management
16 system shall measure and monitor progress toward achieving strategic objectives. When
17 performance fails to achieve strategic objectives within the time period established in the plan,
18 a State-owned railroad company shall take corrective action."

19 **SECTION 34.14.(d)** Article 2 of Chapter 124 of the General Statutes is amended
20 by adding a new section, G.S. 124-17. G.S. 124-3(b) is recodified as G.S. 124-17(b).
21 G.S. 124-3(c) is recodified as G.S. 124-17(c). G.S. 124-17, as enacted and amended by this
22 subsection, reads as rewritten:

23 **"§ 124-17. Enhanced annual report of State-owned railroad company; additional**
24 **reporting requirements to Governor and General Assembly.**

25 (a) A State-owned railroad company shall submit an annual report to the Joint
26 Legislative Commission on Governmental Operations and the Joint Legislative Transportation
27 Oversight Committee. The report shall include the following:

- 28 (1) The information required under G.S. 124-3.
- 29 (2) A copy of the strategic plan and the capital investment plan required under
30 G.S. 124-16.
- 31 (3) Any failures to meet strategic objectives and what corrective actions were
32 taken under G.S. 124-16(b).
- 33 (4) Anticipated dividends for the next three fiscal years.
- 34 (5) A description of the State-owned railroad company's business, subsidiaries,
35 and markets in which it operates.
- 36 (6) A list of the properties owned by the State-owned railroad company.
- 37 (7) A list of the directors and executive officers of the State-owned railroad
38 company and a description of the background and experience of each.
- 39 (8) A description of the State-owned railroad company's code of ethics and
40 conflicts of interest policy.
- 41 (9) A summary of the fees paid to an accounting firm during the year.
- 42 (10) A list of the compensation paid to directors and officers of the State-owned
43 railroad company.
- 44 (11) A description of the State-owned railroad company's disagreements with its
45 accountants if there has been a change in accountants.
- 46 (12) A description of any transactions between the State-owned railroad company
47 and its directors, officers, and their family members.

48 (b) Upon the request of the Governor or any committee of the General Assembly, a
49 State-owned railroad company shall provide all additional information and data within its
50 possession or ascertainable from its records. The State-owned railroad company shall not be
51 deemed to have waived any attorney-client privilege when complying with this subsection. At

1 the time a State-owned railroad company provides information under this section, it shall
2 indicate whether the information is confidential. Confidential information shall be subject to
3 subsection (c) of this section.

4 (c) Confidential information includes (i) information related to a proposed specific
5 business transaction where inspection, examination, or copying of the records would frustrate
6 the purpose for which the records were created, or (ii) information that is subject to
7 confidentiality obligations of a railroad company. Confidential information is exempt from
8 Chapter 132 of the General Statutes and shall not be subject to a request under G.S. 132-6(a)."

9 **SECTION 34.14.(e)** The Freight Rail & Rail Crossing Safety Improvement Fund is
10 established within the Highway Fund.

11 **SECTION 34.14.(f)** One-time Cash Dividend. – Notwithstanding G.S. 124-5.1 and
12 G.S. 136-16.6, any State-owned railroad company, as defined under G.S. 124-11, that has
13 trackage in more than two counties shall issue a cash dividend in the amount of fifteen million
14 five hundred thousand dollars (\$15,500,000), which shall be deposited into the Freight Rail &
15 Rail Crossing Safety Improvement Fund no later than January 15, 2014.

16 **SECTION 34.14.(g)** Annual Cash Dividend. – G.S. 124-5.1 reads as rewritten:

17 "**§ 124-5.1. State use of North Carolina Railroad Company dividends.** ~~dividends deposited~~
18 ~~to Highway Fund.~~

19 (a) ~~Notwithstanding the provisions of G.S. 136-16.6, in order to increase the capital of~~
20 ~~the North Carolina Railroad Company, any dividends of the North Carolina Railroad Company~~
21 ~~received by the State shall be applied to reduce the obligations described in subsection (c) of~~
22 ~~Section 32.30 of S.L. 1997-443, as amended by subsection (d) of Section 27.11 of S.L.~~
23 ~~1999-237. Any dividends of the North Carolina Railroad Company received by the State shall~~
24 ~~be used by the Department of Transportation for the improvement of the property of the North~~
25 ~~Carolina Railroad Company as recommended and approved by the Board of Directors of the~~
26 ~~North Carolina Railroad Company. The improvements may include the following project~~
27 ~~types:~~ deposited into the Freight Rail & Rail Crossing Safety Improvement Fund within the
28 Highway Fund and administered by the Rail Division of the Department of Transportation. The
29 Fund shall be used for the enhancement of freight rail service and railroad-roadway crossing
30 safety, which may include the following project types:

- 31 (1) ~~Railroad and industrial track rehabilitation.~~ Track and associated
32 infrastructure improvements for freight service.
- 33 (2) ~~Railroad signal and grade crossing protection.~~ Grade crossing protection,
34 elimination, and hazard removal.
- 35 (3) ~~Bridge improvements.~~ Signalization improvements.
- 36 (4) ~~Corridor protection.~~ Assistance for projects to improve rail access to
37 industrial, port, and military facilities and for freight intermodal facility
38 improvements, provided that funding assistance under this subdivision shall
39 be subject to the same limits as that for short-line railroads under
40 G.S. 136-44.39.
- 41 (5) ~~Industrial site acquisition.~~

42 The Fund may also be used to supplement funds allocated for freight rail or
43 railroad-roadway crossing safety projects approved as part of the Transportation Improvement
44 Program.

45 ~~The Department of Transportation shall use the Fund to supplement funds allocated for~~
46 ~~projects approved as part of the Transportation Improvement Program.~~

47 (b) ~~Effective January 1, 2000, interest shall not be accrued or otherwise charged on the~~
48 ~~remaining balance of the obligations described in subsection (c) of Section 32.30 of S.L.~~
49 ~~1997-443, as amended by subsection (d) of Section 27.11 of S.L. 1999-237. Interest accrued on~~
50 ~~those obligations relating to periods prior to January 1, 2000, shall be deemed paid and~~
51 ~~contributed by the State to the capital of the North Carolina Railroad Company."~~

1 SECTION 34.14.(h) Article 2 of Chapter 124 of the General Statutes is amended
 2 by adding the following new section:

3 **"§ 124-18. Dividends required of State-owned railroad company.**

4 Any State-owned railroad company that has trackage in more than two counties shall issue
 5 an annual cash dividend to the State. The amount of the annual dividend is twenty-five percent
 6 (25%) of the company's income from the prior year's trackage rights agreements. The dividend
 7 is due by January 15 of each year, and interest shall accrue at the annual rate of prime plus one
 8 percent (1%) if the payment is not paid by the due date. The Directors of any State-owned
 9 railroad company who vote for or assent to the dividend required under this section shall not be
 10 held liable under G.S. 55-8-33."

11 SECTION 34.14.(i) G.S. 136-16.6 is repealed.

12 SECTION 34.14.(j) Assess Certain Real Properties. – Any State-owned railroad
 13 company, as defined under G.S. 124-11, that has trackage in more than two counties shall
 14 assess the company's noncorridor real property that is among the following parcels:

15	Property Description	County	Nearest Town	Parcel ID
16	Burke Street Lot	Alamance	Gibsonville	107493
17	4th Street Lot	Carteret	Morehead	638620808907000
18	Bridges Street Lot	Carteret	Morehead	638620911461000
19	Newport Lot	Carteret	Newport	634814246231000
20	Station & Former Industrial Lot	Carteret	Morehead	638620718127000
21	Waterfront & Riparian Rights	Carteret	Morehead	638620708857000 &
22				638620709868000
23	Wye Property Extension	Carteret	Morehead	637616924807000
24	Wye Property	Carteret	Morehead	637620923019000
25	Clarks Lot	Craven	Clarks	8-221-035
26	N. Craven St. Lot	Craven	New Bern	8-003-241-A
27	Tiffany & Bright Sts. Property	Lenoir	Kinston	11185 & 26555
28	Morrisville Former Depot	Wake	Morrisville	0755-14-6475
29	Waynesboro Lot	Wayne	Goldsboro	2599119118

30 The assessment shall identify potential environmental issues; title, encroachment
 31 and other legal property issues; and any other characteristic of the property that would
 32 significantly impact the value of the parcels to a prospective purchaser. Any State-owned
 33 railroad company, as defined under G.S. 124-11, that has trackage in more than two counties
 34 shall report no later than April 1, 2014, to the Joint Legislative Transportation Oversight
 35 Committee and the Fiscal Research Division. The report shall include the findings of the
 36 assessment required by this subsection, an estimate of the costs to mitigate any environmental
 37 issues to meet applicable federal or State standards, the estimated value of the parcels taking
 38 into account mitigation costs, and potential alternate State uses for the parcels.

39 SECTION 34.14.(k) Subsections (g), (h), and (i) of this section become effective
 40 January 1, 2014.

41
 42 **ELIMINATE TELECOMMUNICATIONS AND INSPECTIONS PROGRAM**
 43 **ACCOUNTS**

44 SECTION 34.15.(a) The sum of ten million five hundred thousand dollars
 45 (\$10,500,000) of the unallotted and unexpended balance of funds within the Inspection
 46 Program Account shall be transferred to the Highway Fund as appropriated and allocated by
 47 this act. The Inspection Program Account shall be eliminated after all funds allotted as of June
 48 30, 2013, have been expended. The remaining unallotted and unexpended balance of funds
 49 shall be transferred to the Reserve for General Maintenance (fund center 1500/150934).

1 **SECTION 34.15.(b)** Effective June 30, 2014, G.S. 20-183.7(d1) is repealed, and
 2 the unallotted and unexpended balance of funds in the Telecommunications Account on that
 3 date shall be transferred to the Reserve for General Maintenance (fund center 1500/150934).

4 **SECTION 34.15.(c)** G.S. 20-183.7 reads as rewritten:

5 "**§ 20-183.7. Fees for performing an inspection and issuing an electronic inspection**
 6 **authorization to a vehicle; use of civil penalties.**

7 ...
 8 (c) Fee Distribution. – Fees collected for electronic inspection authorizations are
 9 payable to the Division of Motor Vehicles. The amount of each fee listed in the table below
 10 shall be credited to the Highway Fund, ~~the Inspection Program Account established in~~
 11 ~~subsection (d) of this section, the Telecommunications Account established in subsection (d1)~~
 12 ~~of this section, the Volunteer Rescue/EMS Fund established in G.S. 58-87-5, the Rescue Squad~~
 13 ~~Workers' Relief Fund established in G.S. 58-88-5, and the Division of Air Quality of the~~
 14 ~~Department of Environment and Natural Resources:~~

<u>Recipient</u>	<u>Safety Only</u> <u>Electronic</u> <u>Authorization</u>	<u>Emissions and</u> <u>Safety</u> <u>Electronic</u> <u>Authorization</u>
19 Highway Fund	.55	<u>-.555.30</u>
20 Inspection Program Account	.00	3.00
21 Telecommunications Account	.00	1.75
22 Volunteer Rescue/EMS Fund	.18	.18
23 Rescue Squad Workers' Relief Fund	.12	.12
24 Division of Air Quality	.00	.65.

25 ~~(d) Inspection Program Account. — The Inspection Program Account is created as a~~
 26 ~~nonreverting account within the Highway Fund. The Division shall administer the Account.~~
 27 ~~Revenue in the Account may be used only to fund the vehicle inspection and maintenance~~
 28 ~~program and to fund replacement of the State Titling and Registration System and the State~~
 29 ~~Automated Driver License System.~~

30 "

31
 32 **DIVISION OF MOTOR VEHICLES TECHNOLOGY IMPROVEMENT ACCOUNT**

33 **SECTION 34.16.(a)** The Division of Motor Vehicles Technology Improvement
 34 Account shall be eliminated after all funds allotted as of June 30, 2013, have been expended.
 35 The unallotted and unexpended balance of funds in the Account shall be transferred to the
 36 Highway Fund as appropriated and allocated by this act.

37 **SECTION 34.16.(b)** G.S. 20-85 reads as rewritten:

38 "**§ 20-85 Schedule of fees.**

39 ...
 40 (a1) One dollar (\$1.00) of the fee imposed for any transaction assessed a fee under
 41 subdivision (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), or (a)(9) of this section shall be credited to the
 42 North Carolina Highway Fund. ~~The Division shall use the fees derived from transactions with~~
 43 ~~the Division for technology improvements.~~ The Division shall use the fees derived from
 44 transactions with commission contract agents for the payment of compensation to commission
 45 contract agents. An additional fifty cents (50¢) of the fee imposed for any transaction assessed
 46 a fee under subdivision (a)(1) of this section shall be credited to the Mercury Switch Removal
 47 Account in the Department of Environment and Natural Resources. An additional fifty cents
 48 (50¢) of the fee imposed for any transaction assessed a fee under subdivision (a)(1) of this
 49 section shall be credited as follows:

- 50 (1) The first four hundred thousand dollars (\$400,000) collected shall be
- 51 credited to the Reserve for Visitor Centers in the Highway Fund.

- 1 (2) Any additional funds collected shall be credited to the Highway Trust Fund
2 and, notwithstanding G.S. 136-176(b), shall be allocated and used for urban
3 loop projects.

4"

6 DEPARTMENT OF TRANSPORTATION CONTRACTED SERVICES

7 SECTION 34.17. The Department of Transportation, Business and Contractual
8 Services Unit, shall, in collaboration with the Division of Motor Vehicles, evaluate current
9 contractual models and compensation for the provision of registration, title, tax collection, and
10 other vehicle service transactions by branch agents contracting with the Division of Motor
11 Vehicles. As part of this evaluation, the Department shall conduct an analysis of transaction
12 trends, completion and error rates, and service times by transaction type and branch agent type,
13 and shall assess the appropriateness of the current basis for contractor compensation and rates
14 relative to documented service requirements.

15 Based on its findings, the Department shall recommend alternatives to the current
16 contractual models for branch agents to standardize contract types, enhance performance, and
17 strengthen contract administration, taking into account citizen accessibility to service centers.
18 In addition, the Department shall submit detailed proposals for alternate options for contractor
19 compensation, including, at a minimum, competitive bidding of branch agent contracts. The
20 Department shall identify anticipated programmatic and fiscal impacts, and include
21 implementation plans for each alternative.

22 The Department shall report its findings and recommendations to the Joint
23 Legislative Transportation Oversight Committee, Joint Legislative Program Evaluation
24 Oversight Committee, and Fiscal Research Division no later than March 1, 2014.

26 ETHICS REQUIREMENTS FOR MPOS/RPOS

27 SECTION 34.18.(a) G.S. 136-202(e) is repealed.

28 SECTION 34.18.(b) G.S. 136-200.2 is amended by adding new subsections to
29 read:

30 "(g) Ethics Provisions. – All individuals with voting authority serving on a metropolitan
31 planning organization who are not members of the Board of Transportation shall do all of the
32 following:

- 33 (1) Except as permitted under this subdivision, no MPO member acting in that
34 capacity shall participate in an action if the member knows the member, the
35 member's extended family, or any business with which the member is
36 associated may incur a reasonably foreseeable financial benefit from the
37 matter under consideration, which financial benefit would impair the MPO
38 member's independence of judgment or from which it could reasonably be
39 inferred that the financial benefit would influence the member's participation
40 in the action. An MPO member may participate in an action of the MPO
41 under any of the following circumstances:

- 42 a. When action is ministerial only and does not require the exercise of
43 discretion.
44 b. When the committee records in its minutes that it cannot obtain a
45 quorum in order to take the action because the MPO member is
46 disqualified from acting, the MPO member may be counted for
47 purposes of a quorum but shall otherwise abstain from taking any
48 further action.

- 49 (2) An MPO member shall have an affirmative duty to promptly disclose in
50 writing to the MPO any conflict of interest or potential conflict of interest
51 under subdivision (1) of this subsection. All written disclosures shall be a

1 public record under Chapter 132 of the General Statutes and attached to the
2 minutes of the meeting in which any discussion or vote was taken by the
3 MPO related to that disclosure.

4 (3) File a statement of economic interest with the State Ethics Commission in
5 accordance with Article 3 of Chapter 138A of the General Statutes, for
6 which the State Ethics Commission shall prepare a written evaluation
7 relative to conflicts of interest and potential conflicts of interest and provide
8 a copy of that evaluation to the MPO member. All statements of economic
9 interest and all written evaluations by the Commission of those statements
10 are public records as provided in G.S. 138A-23. The penalties for failure to
11 file shall be as set forth in G.S. 138A-25(a) and (b).

12 (4) File, with and in the same manner as the statement of economic interest filed
13 under subdivision (3) of this subsection, an additional disclosure of a list of
14 all real estate owned wholly or in part by the MPO member, the MPO
15 member's extended family, or a business with which the MPO member is
16 associated within the jurisdiction of the MPO on which the MPO member is
17 serving. All additional disclosures of real estate filed by MPO members are
18 public records under Chapter 132 of the General Statutes.

19 (h) Confidential Information. – An MPO member shall not use or disclose any
20 nonpublic information gained in the course of or by reason of serving as a member of the MPO
21 in a way that would affect a personal financial interest of the MPO member, the MPO
22 member's extended family, or a business with which the MPO member is associated.

23 (i) Definitions. – For purposes of this section, "extended family" shall have the same
24 meaning as in G.S. 138A-3(13), "business with which associated" shall have the same meaning
25 as in G.S. 138A-3(3), and "financial benefit" shall mean a direct pecuniary gain or loss or a
26 direct pecuniary loss to a business competitor.

27 (j) Violations. – A violation of subdivision (1) of subsection (g) of this section shall be
28 a Class 1 misdemeanor. An MPO member who knowingly conceals or knowingly fails to
29 disclose information that is required to be disclosed on a required filing under subdivision (3)
30 or (4) of subsection (g) of this section shall be guilty of a Class 1 misdemeanor. An MPO
31 member who provides false information on a required filing under subdivision (3) or (4) of
32 subsection (g) of this section knowing that the information is false is guilty of a Class H felony.

33 (k) All individuals with voting authority serving on an MPO who are members of the
34 Board of Transportation shall comply with Chapter 138A of the General Statutes and
35 G.S. 143B-350 while serving on the MPO."

36 **SECTION 34.18.(c)** G.S. 136-211(e) is repealed.

37 **SECTION 34.18.(d)** G.S. 136-211 is amended by adding new subsections to read:

38 "(f) Ethics Provisions. – All individuals with voting authority serving on a rural
39 transportation planning organization who are not members of the Board of Transportation shall
40 do all of the following:

41 (1) Except as permitted under this subdivision, no rural transportation planning
42 organization member acting in that capacity shall participate in an action of
43 the rural transportation planning organization if the rural transportation
44 planning organization member knows the rural transportation planning
45 organization member, the rural transportation planning organization
46 member's extended family, or any business with which the rural
47 transportation planning organization member is associated may incur a
48 reasonably foreseeable financial benefit from the matter under consideration,
49 which financial benefit would impair the rural transportation planning
50 organization member's independence of judgment or from which it could
51 reasonably be inferred that the financial benefit would influence the rural

1 transportation planning organization member's participation in the action of
2 the rural transportation planning organization.

3 a. When action is ministerial only and does not require the exercise of
4 discretion.

5 b. When the committee records in its minutes that it cannot obtain a
6 quorum in order to take the action because the rural transportation
7 planning organization member is disqualified from acting, the rural
8 transportation planning organization member may be counted for
9 purposes of a quorum but shall otherwise abstain from taking any
10 further action.

11 (2) A rural transportation planning organization member shall have an
12 affirmative duty to promptly disclose in writing to the rural transportation
13 planning organization any conflict of interest or potential conflict of interest
14 under subdivision (1) of this subsection. All written disclosures shall be a
15 public record under Chapter 132 of the General Statutes and attached to the
16 minutes of the meeting in which any discussion or vote was taken by the
17 rural transportation planning organization related to that disclosure.

18 (3) File a statement of economic interest with the State Ethics Commission in
19 accordance with Article 3 of Chapter 138A of the General Statutes for which
20 the State Ethics Commission shall prepare a written evaluation relative to
21 conflicts of interest and potential conflicts of interest and provide a copy of
22 that evaluation to the rural transportation planning organization member. All
23 statements of economic interest and all written evaluations by the
24 Commission of those statements are public records as provided in
25 G.S. 138A-23. The penalties for failure to file shall be as set forth in
26 G.S. 138A-25(a) and (b).

27 (4) File, with and in the same manner as the statement of economic interest filed
28 under subdivision (3) of this subsection, an additional disclosure of a list of
29 all real estate owned wholly or in part by the rural transportation planning
30 organization member, the rural transportation planning organization
31 member's extended family, or a business with which the rural transportation
32 planning organization member is associated within the jurisdiction of the
33 rural transportation planning organization on which the rural transportation
34 planning organization member is serving. All additional disclosures of real
35 estate filed by members are public records under Chapter 132 of the General
36 Statutes.

37 (g) Confidential Information. – A rural transportation planning organization member
38 shall not use or disclose any nonpublic information gained in the course of or by reason of
39 serving as a member of the rural transportation planning organization in a way that would
40 affect a personal financial interest of the rural transportation planning organization member, the
41 rural transportation planning organization member's extended family, or a business with which
42 the rural transportation planning organization member is associated.

43 (h) Definitions. – For purposes of this section, "extended family" shall have the same
44 meaning as in G.S. 138A-3(13), "business with which associated" shall have the same meaning
45 as in G.S. 138A-3(3), and "financial benefit" shall mean a direct pecuniary gain or loss or a
46 direct pecuniary loss to a business competitor.

47 (i) Violations. – A violation of subdivision (1) of subsection (f) of this section shall be
48 a Class 1 misdemeanor. A rural transportation planning organization member who knowingly
49 conceals or knowingly fails to disclose information that is required to be disclosed on a
50 required filing under subdivision (3) or (4) of subsection (f) of this section shall be guilty of a
51 Class 1 misdemeanor. A rural transportation planning organization member who provides false

1 information on a required filing under subdivision (3) or (4) of subsection (f) of this section
2 knowing that the information is false is guilty of a Class H felony.

3 (j) All individuals with voting authority serving on a rural transportation planning
4 organization who are members of the Board of Transportation shall comply with Chapter 138A
5 of the General Statutes and G.S. 143B-350 while serving on the rural transportation planning
6 organization."

7 **SECTION 34.18.(e)** This section is effective when it becomes law. All individuals
8 with voting authority serving on a metropolitan planning organization or a rural transportation
9 planning organization shall file statements of economic interest and additional real estate lists
10 with the State Ethics Commission no later than April 15, 2014. Any member of a metropolitan
11 planning organization or a rural transportation planning organization that filed a statement of
12 economic interest in compliance with G.S. 136-202(e) or G.S. 136-211(e) shall not be required
13 to file again, and the State Ethics Commission shall prepare the evaluation under
14 G.S. 136-200.2(g) or G.S. 136-211(f) of that filing.

16 STRATEGIC TRANSPORTATION INVESTMENTS

17 **SECTION 34.19.(a)** Chapter 136 of the General Statutes is amended by adding a
18 new Article to read:

19 "Article 14B.

20 "Strategic Prioritization Funding Plan for Transportation Investments.

21 **"§ 136-189.10. Definitions.**

22 The following definitions apply in this Article:

- 23 (1) Statewide strategic mobility projects. – Includes only the following:
24 a. Interstate highways and future interstate highways approved by the
25 federal government.
26 b. Routes on the National Highway System as of July 1, 2012,
27 excluding intermodal connectors.
28 c. Highway routes on the United States Department of Defense
29 Strategic Highway Network (STRAHNET).
30 d. Interstate highway toll routes designated by the Department of
31 Transportation, pursuant to its authority under State law, or
32 extensions of highway toll projects in existence on July 1, 2013.
33 e. Highway projects listed in G.S. 136-179, as it existed on July 1,
34 2012, that are not authorized for construction as of July 1, 2015.
35 f. Appalachian Development Highway System.
36 g. Commercial service airports included in the Federal Aviation
37 Administration's National Plan of Integrated Airport Systems
38 (NPIAS) that provide international passenger service or 375,000 or
39 more enplanements annually, provided that the State's annual
40 financial participation in any single airport project included in this
41 subdivision may not exceed five hundred thousand dollars
42 (\$500,000).
43 h. Freight capacity and safety improvements to Class I freight rail
44 corridors.
- 45 (2) Regional impact projects. – Includes only the following:
46 a. Projects listed in subdivision (1) of this section, subject to the
47 limitations noted in that subdivision.
48 b. U.S. highway routes not included in subdivision (1) of this section.
49 c. N.C. highway routes not included in subdivision (1) of this section.
50 d. Highway toll routes not included in subdivision (1) of this section.

- 1 e. Commercial service airports included in the NPIAS that are not
2 included in subdivision (1) of this section, provided that the State's
3 annual financial participation in any single airport project included in
4 this subdivision may not exceed three hundred thousand dollars
5 (\$300,000).
- 6 f. The State-maintained ferry system, excluding passenger vessel
7 replacement.
- 8 g. Freight capacity and safety improvements to rail corridors spanning
9 two or more counties and not included in subdivision (1) of this
10 section.
- 11 (3) Division needs projects. – Includes only the following:
- 12 a. Projects listed in subdivision (1) or (2) of this section, subject to the
13 limitations noted in those subsections.
- 14 b. State highway routes not included in subdivision (1) or (2) of this
15 section.
- 16 c. Airports included in the NPIAS that are not included in subdivision
17 (1) or (2) of this section, provided that the State's total annual
18 financial participation under this sub-subdivision shall not exceed
19 eighteen million five hundred thousand dollars (\$18,500,000).
- 20 d. Freight capacity and safety improvements to rail corridors not
21 included in subdivision (1) or (2) of this section.
- 22 e. Public transportation service improvements, facilities, and
23 equipment, including intercity rail, commuter rail, light rail,
24 multimodal terminals and stations used for passenger transit.
- 25 f. Federally-funded bicycle and pedestrian improvements.
- 26 g. Replacement of State-maintained ferry vessels.
- 27 h. Federally-funded municipal road projects.
- 28 (4) Distribution Regions. – The following Distribution Regions apply to this
29 Article:
- 30 a. Distribution Region A consists of the following counties: Bertie,
31 Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax,
32 Hertford, Hyde, Johnston, Martin, Nash, Northampton, Pasquotank,
33 Perquimans, Tyrrell, Washington, Wayne, and Wilson.
- 34 b. Distribution Region B consists of the following counties: Beaufort,
35 Brunswick, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New
36 Hanover, Onslow, Pamlico, Pender, Pitt, and Sampson.
- 37 c. Distribution Region C consists of the following counties: Bladen,
38 Columbus, Cumberland, Durham, Franklin, Granville, Harnett,
39 Person, Robeson, Vance, Wake, and Warren.
- 40 d. Distribution Region D consists of the following counties: Alamance,
41 Caswell, Davidson, Davie, Forsyth, Guilford, Orange, Rockingham,
42 Rowan, and Stokes.
- 43 e. Distribution Region E consists of the following counties: Anson,
44 Cabarrus, Chatham, Hoke, Lee, Mecklenburg, Montgomery, Moore,
45 Randolph, Richmond, Scotland, Stanly, and Union.
- 46 f. Distribution Region F consists of the following counties: Alexander,
47 Alleghany, Ashe, Avery, Caldwell, Catawba, Cleveland, Gaston,
48 Iredell, Lincoln, Surry, Watauga, Wilkes, and Yadkin.
- 49 g. Distribution Region G consists of the following counties: Buncombe,
50 Burke, Cherokee, Clay, Graham, Haywood, Henderson, Jackson,

Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain,
Transylvania, and Yancey.

"§ 136-189.11. Transportation Investment Strategy Formula.

(a) Funds Subject to Formula. – The following sources of funds are subject to this section:

- (1) Highway Trust Fund funds, in accordance with G.S. 136-176.
- (2) Federal aid funds.

(b) Funds Excluded From Formula. – The following funds are not subject to this section:

- (1) Federal congestion mitigation and air quality improvement program funds appropriated to the State by the United States pursuant to 23 U.S.C. § 104(b)(2) and 23 U.S.C. § 149.
- (2) Funds received through competitive awards or discretionary grants through federal appropriations either for local governments, transportation authorities, transit authorities, or the Department.
- (3) Funds received from the federal government that under federal law may only be used for Appalachian Development Highway System projects.
- (4) Funds used in repayment of "GARVEE" bonds related to Phase I of the Yadkin River Veterans Memorial Bridge project.
- (5) Funds committed to gap funding for toll roads funded with bonds issued pursuant to G.S. 136-176.
- (6) Funds obligated for projects in the State Transportation Improvement Program that are scheduled for construction as of April 1, 2013, in State fiscal year 2012-2013, 2013-2014, or 2014-2015.
- (7) Toll collections from a turnpike project under Article 6H of this Chapter and other revenue from the sale of the Authority's bonds or notes or project loans, in accordance with G.S. 136-89.192.
- (8) Toll collections from the State-maintained ferry system collected under the authority of G.S. 136-82.

(b1) Funds Excluded From Regional Impact Project Category. – Federal Surface Transportation Program-Direct Attributable funds expended on eligible projects in the Regional Impact Project category are excluded from that category.

(c) Funds With Alternate Criteria. – The following federal program activities shall be included in the applicable category of the Transportation Investment Strategy Formula set forth in subsection (d) of this section but shall not be subject to the prioritization criteria set forth in that subsection:

- (1) Bridge replacement.
- (2) Interstate maintenance.
- (3) Highway safety improvement.

(d) Transportation Investment Strategy Formula. – Funds subject to the Formula shall be distributed as follows:

- (1) Statewide Strategic Mobility Projects. – Forty percent (40%) of the funds subject to this section shall be used for Statewide Strategic Mobility Projects.
 - a. Criteria. – Transportation-related quantitative criteria shall be used by the Department to rank highway projects that address cost-effective Statewide Strategic Mobility needs and promote economic and employment growth. The criteria for selection of Statewide Strategic Mobility Projects shall utilize a numeric scale of 100 points, based on consideration of the following quantitative criteria:

- 1 1. Benefit-cost.
- 2 2. Congestion.
- 3 3. Safety.
- 4 4. Freight.
- 5 5. Multimodal.
- 6 6. Pavement condition.
- 7 7. Lane width.
- 8 8. Shoulder width.
- 9 b. Project cap. – No more than 10 percent (10%) of the funds projected
- 10 to be allocated to the Statewide Strategic Mobility category over any
- 11 five-year period may be assigned to any contiguous project or group
- 12 of projects in the same corridor within a Highway Division or within
- 13 adjoining Highway Divisions.
- 14 (2) Regional Impact Projects. – Thirty percent (30%) of the funds subject to this
- 15 section shall be used for Regional Impact Projects and allocated by
- 16 population of Distribution Regions, based on the most recent estimates
- 17 certified by the Office of State Budget and Management.
- 18 a. Criteria. – A combination of transportation-related quantitative
- 19 criteria, qualitative criteria, and local input shall be used to rank
- 20 Regional Impact Projects involving highways that address
- 21 cost-effective needs from a region-wide perspective and promote
- 22 economic growth. Local input is defined as the rankings identified by
- 23 the Department's Transportation Division Engineers, Metropolitan
- 24 Planning Organizations, and Rural Transportation Planning
- 25 Organizations. The criteria utilized for selection of Regional Impact
- 26 Projects shall be based 30 percent (30%) on local input and 70
- 27 percent (70%) on consideration of a numeric scale of 100 points,
- 28 based on the following quantitative criteria:
- 29 1. Benefit-cost.
- 30 2. Congestion.
- 31 3. Safety.
- 32 4. Freight.
- 33 5. Multimodal.
- 34 6. Pavement condition.
- 35 7. Lane width.
- 36 8. Shoulder width.
- 37 9. Accessibility and connectivity to employment centers, tourist
- 38 destinations, and military installations.
- 39 (3) Division Need Projects. – Thirty percent (30%) of the funds subject to this
- 40 section shall be allocated in equal share to each of the Department divisions,
- 41 as defined in G.S. 136-14.1, and used for Division Need Projects.
- 42 a. Criteria. – A combination of transportation-related quantitative
- 43 criteria, qualitative criteria, and local input shall be used to rank
- 44 Division Need Projects involving highways that address
- 45 cost-effective needs from a Division-wide perspective, provide
- 46 access, and address safety-related needs of local communities. Local
- 47 input is defined as the rankings identified by the Department's
- 48 Transportation Division Engineers, Metropolitan Planning
- 49 Organizations, and Rural Transportation Planning Organizations. The
- 50 criteria utilized for selection of Division Need Projects shall be based
- 51 50 percent (50%) on local input and 50 percent (50%) on

- 1 consideration of a numeric scale of 100 points, based on the
2 following quantitative criteria, except as provided in sub-subdivision
3 b. of this subdivision:
- 4 1. Benefit-cost.
 - 5 2. Congestion.
 - 6 3. Safety.
 - 7 4. Freight.
 - 8 5. Multimodal.
 - 9 6. Pavement condition.
 - 10 7. Lane width.
 - 11 8. Shoulder width.
 - 12 9. Accessibility and connectivity to employment centers, tourist
13 destinations, and military installations.
- 14 b. Alternate criteria. – Funding from the following programs shall be
15 included in the computation of each of the Department division equal
16 shares but shall be subject to alternate quantitative criteria:
- 17 1. Federal Surface Transportation Program-Direct Attributable
18 funds expended on eligible projects in the Division Need
19 Projects category.
 - 20 2. Federal Transportation Alternatives funds appropriated to the
21 State.
 - 22 3. Federal Railway-highway crossings program funds
23 appropriated to the State.
 - 24 4. Projects requested from the Department in support of a
25 time-critical job creation opportunity, when the opportunity
26 would be classified as transformational under the Job
27 Development Investment Grant program established pursuant
28 to G.S. 143B-437.52, provided that the total State investment
29 in each fiscal year for all projects funded under this
30 sub-subdivision shall not exceed ten million dollars
31 (\$10,000,000) in the aggregate or two million dollars
32 (\$2,000,000) per project.
 - 33 5. Federal funds for municipal road projects.
- 34 c. Bicycle and pedestrian limitation. – The Department shall not
35 provide financial support for bicycle and pedestrian improvement
36 projects, except for federal funds administered by the Department for
37 that purpose. This sub-subdivision shall not apply to funds allocated
38 to a municipality pursuant to G.S. 136-41.1 which are committed by
39 the municipality as matching funds for federal funds administered by
40 the Department and used for bicycle and pedestrian improvement
41 projects. This limitation shall not apply to projects under construction
42 or authorized for construction on June 30, 2013.
- 43 (4) Criteria for nonhighway projects. – Nonhighway projects subject to this
44 subsection shall be evaluated through a separate prioritization process
45 established by the Department that complies with all of the following:
- 46 a. The criteria used for selection of projects for a particular
47 transportation mode shall be based on a minimum of four
48 quantitative criteria.
 - 49 b. Local input shall include rankings of projects identified by the
50 Department's Transportation Division Engineers, Metropolitan

1 Planning Organizations, and Rural Transportation Planning
2 Organizations.

3 c. The criteria shall be based on a scale not to exceed 100 points that
4 includes no bonus points or other alterations favoring any particular
5 mode of transportation.

6 (e) Authorized Formula Variance. – The Department may vary from the Formula set
7 forth in this section if it complies with the following:

8 (1) Limitation on variance. – The Department, in obligating funds in accordance
9 with this section, shall ensure that the percentage amount obligated to
10 Statewide Strategic Mobility Projects, Regional Impact Projects, and
11 Division Need Projects does not vary by more than five percent (5%) over
12 any five-year period from the percentage required to be allocated to each of
13 those categories by this section. Funds obligated among distribution regions
14 or divisions pursuant to this section may vary up to 10 percent (10%) over
15 any five-year period.

16 (2) Calculation of variance. – Each year the Secretary shall calculate the amount
17 of Regional Impact and Division Need funds allocated in that year to each
18 division and region, the amount of funds obligated, and the amount the
19 obligations exceeded or were below the allocation. In the first variance
20 calculation under this subdivision following the end of fiscal year
21 2015-2016, the target amounts obtained according to the Formula set forth in
22 this section shall be adjusted to account for any differences between
23 allocations and obligations reported for the previous year. In the first
24 variance calculation under this subdivision following the end of fiscal year
25 2016-2017, the target amounts obtained according to the Formula set forth in
26 this section shall be adjusted to account for any differences between
27 allocations and obligations reported for the previous two fiscal years. In the
28 first variance calculation under this subdivision following the end of fiscal
29 year 2017-2018, the target amounts obtained according to the Formula set
30 forth in this section shall be adjusted to account for any differences between
31 allocations and obligations reported for the previous three fiscal years. In the
32 first variance calculation under this subdivision following the end of fiscal
33 year 2018-2019, the target amounts obtained according to the Formula set
34 forth in this section shall be adjusted to account for any differences between
35 allocations and obligations reported for the previous four fiscal years. The
36 new target amounts shall be used to fulfill the requirements of subdivision
37 (1) of this subsection for the next update of the Transportation Improvement
38 Program. The adjustment to the target amount shall be allocated by
39 Distribution Region or Division, as applicable.

40 (f) Incentives for Local Funding and Highway Tolling. – The Department may revise
41 highway project selection ratings based on local government funding initiatives and capital
42 construction funding directly attributable to highway toll revenue. Projects authorized for
43 construction after November 1, 2013, and contained in the 10-year Department of
44 Transportation work program are eligible for a bonus allocation under this subsection.

45 (1) Definitions. – The following definitions apply in this subsection:

46 a. Bonus allocation. – The allocation obtained as a result of local
47 government funding participation or highway tolling.

48 b. Local funding participation. – Non-State or nonfederal funds
49 committed by local officials to leverage the commitment of State or
50 federal transportation funds towards construction.

- 1 (2) Funds obtained from local government funding participation. – Upon
2 authorization to construct a project with funds obtained by local government
3 funding participation, the Department shall make available for allocation as
4 set forth in subdivision (4) of this section an amount equal to one-half of the
5 local funding commitment for other eligible highway projects that serve the
6 local entity or entities that provided the local funding.
- 7 (3) Funds obtained through highway tolling. – Upon authorization to construct a
8 project with funding from toll revenue, the Department shall make available
9 for allocation an amount equal to one-half of the project construction cost
10 derived from toll revenue bonds. The amount made available for allocation
11 to other eligible highway projects shall not exceed one hundred million
12 dollars (\$100,000,000) of the capital construction funding directly
13 attributable to the highway toll revenues committed in the Investment Grade
14 Traffic and Revenue Study. If the toll project is located in one or more
15 Metropolitan Planning Organization or Rural Transportation Planning
16 Organization boundaries, based on the boundaries in existence at the time of
17 letting of the project construction contract, the bonus allocation shall be
18 distributed proportionately to lane miles of new capacity within the
19 Organization's boundaries. The Organization shall apply the bonus allocation
20 only within those counties in which the toll project is located.
- 21 (4) Use of bonus allocation. – The Metropolitan Planning Organization, Rural
22 Transportation Planning Organization, or the local government may choose
23 to apply its bonus allocation in one of the three categories or in a
24 combination of the three categories as provided in this subdivision.
- 25 a. Statewide Strategic Mobility Projects category. – The bonus
26 allocation shall apply over the five-year period in the State
27 Transportation Improvement Program in the cycle following the
28 contractual obligation.
- 29 b. Regional Impact Projects category. – The bonus allocation is capped
30 at 10 percent (10%) of the regional allocation, or allocation to
31 multiple regions, made over a five-year period and shall be applied
32 over the five-year period in the State Transportation Improvement
33 Program in the cycle following the contractual obligation.
- 34 c. Division Needs Projects category. – The bonus allocation is capped
35 at 10 percent (10%) of the division allocation, or allocation to
36 multiple divisions, made over a five-year period and shall be applied
37 over the five-year period in the State Transportation Improvement
38 Program in the cycle following the contractual obligation.
- 39 (g) Reporting. – The Department shall publish on its Web site, in a link to the "Strategic
40 Transportation Investments" Web site linked directly from the Department's home page, the
41 following information in an accessible format as promptly as possible:
- 42 (1) The quantitative criteria used in each highway and nonhighway project
43 scoring, including the methodology used to define each criteria, the criteria
44 presented to the Board of Transportation for approval, and any adjustments
45 made to finalize the criteria.
- 46 (2) The quantitative and qualitative criteria in each highway or nonhighway
47 project scoring that is used in each region or division to finalize the local
48 input score, and shall include distinctions between Metropolitan Planning
49 Organization and Rural Transportation Planning Organization scoring and
50 methodologies.

- 1 (3) Notification of changes to the methodologies used to calculate quantitative
 2 criteria.
 3 (4) The final quantitative formulas, including the number of points assigned to
 4 each criteria, used in each highway and nonhighway project scoring used to
 5 obtain project rankings in the Statewide, Regional, and Division categories.
 6 If the Department approves different formulas or point assignments
 7 regionally or by division, the final scoring for each area shall be noted.
 8 (5) The project scorings associated with the release of the draft and final State
 9 Transportation Improvement Program."

10 **SECTION 34.19.(b) (Effective July 1, 2019)** G.S. 136-189.11(e)(2) reads as
 11 rewritten:

12 "(e) Authorized Formula Variance. – The Department may vary from the Formula set
 13 forth in this section if it complies with the following:

- 14 ...
- 15 (2) Calculation of Variance. – Each year, the Secretary shall calculate the
 16 amount of Regional Impact and Division Need funds allocated in that year to
 17 each ~~division,~~division and region, the amount of funds obligated, and the
 18 amount the obligations exceeded or were below the allocation. ~~In the first~~
 19 ~~variance calculation under this subdivision following the end of fiscal year~~
 20 ~~2015-16, the target amounts obtained according to the Formula set forth in~~
 21 ~~this section shall be adjusted to account for any differences between~~
 22 ~~allocations and obligations reported for the previous year. In the first~~
 23 ~~variance calculation under this subdivision following the end of fiscal year~~
 24 ~~2016-17, the target amounts obtained according to the Formula set forth in~~
 25 ~~this section shall be adjusted to account for any differences between~~
 26 ~~allocations and obligations reported for the previous two fiscal years. In the~~
 27 ~~first variance calculation under this subdivision following the end of fiscal~~
 28 ~~year 2017-18, the target amounts obtained according to the Formula set forth~~
 29 ~~in this section shall be adjusted to account for any differences between~~
 30 ~~allocations and obligations reported for the previous three fiscal years. In the~~
 31 ~~first variance calculation under this subdivision following the end of fiscal~~
 32 ~~year 2018-19, the~~The target amounts obtained according to the Formula set
 33 forth in this section shall be adjusted to account for any differences between
 34 allocations and obligations reported for the previous ~~four~~five fiscal years.
 35 The new target amounts shall be used to fulfill the requirements of
 36 subdivision (1) of this subsection for the next update of the Transportation
 37 Improvement Program. The adjustment to the target amount shall be
 38 allocated by Distribution Region or Division, as applicable."

39 **SECTION 34.19.(c)** Strategic Prioritization Process Reporting. – The Department
 40 shall issue a draft revision to the State Transportation Improvement Program required by
 41 G.S. 143B-350(f)(4) no later than January 1, 2015. The Board of Transportation shall approve
 42 the revised State Transportation Improvement Program no later than July 1, 2015.

43 44 **SECONDARY ROADS CHANGES**

45 **SECTION 34.19.(d)** G.S. 20-85, as rewritten by Section 34.16 of this act, reads as
 46 rewritten:

47 "**§ 20-85. Schedule of fees.**

- 48 ...
- 49 (a1) One dollar (\$1.00) of the fee imposed for any transaction assessed a fee under
 50 subdivision (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), or (a)(9) of this section shall be credited to the
 51

1 North Carolina Highway Fund. The Division shall use the fees derived from transactions with
2 commission contract agents for the payment of compensation to commission contract agents.
3 An additional fifty cents (50¢) of the fee imposed for any transaction assessed a fee under
4 subdivision (a)(1) of this section shall be credited to the Mercury Switch Removal Account in
5 the Department of Environment and Natural Resources. ~~An additional fifty cents (50¢) of the~~
6 ~~fee imposed for any transaction assessed a fee under subdivision (a)(1) of this section shall be~~
7 ~~credited as follows:~~

8 (1) ~~The first four hundred thousand dollars (\$400,000) collected shall be~~
9 ~~credited to the Reserve for Visitor Centers in the Highway Fund.~~

10 (2) ~~Any additional funds collected shall be credited to the Highway Trust Fund~~
11 ~~and, notwithstanding G.S. 136-176(b), shall be allocated and used for urban~~
12 ~~loop projects.~~

13 (a2) From the fees collected under subdivisions (a)(1) through (a)(9) of this section, the
14 Department shall annually credit the sum of four hundred thousand dollars (\$400,000) to the
15 Reserve for Visitor Centers in the Highway Fund.

16 (b) Except as otherwise provided in ~~subsection (a1)~~ subsections (a1) and (a2) of this
17 section, the fees collected under subdivisions (a)(1) through (a)(9) of this section shall be
18 credited to the North Carolina Highway Trust Fund. The fees collected under subdivision
19 (a)(10) of this section shall be credited to the Highway Fund. ~~Fifteen dollars (\$15.00) of each~~
20 ~~title fee credited to the Trust Fund under subdivision (a)(1) shall be added to the amount~~
21 ~~allocated for secondary roads under G.S. 136-176 and used in accordance with G.S. 136-44.5.~~

22 "...."

23 **SECTION 34.19.(e)** G.S. 136-44.2 reads as rewritten:

24 "**§ 136-44.2. Budget and appropriations.**

25 (a) The Director of the Budget shall include in the "Current Operations Appropriations
26 Act" an enumeration of the purposes or objects of the proposed expenditures for each of the
27 ~~construction and maintenance~~ construction, maintenance, and improvement programs for that
28 budget period for the State primary, secondary, State parks road systems, and other
29 transportation systems. The State primary system shall include all portions of the State highway
30 system located both inside and outside municipal corporate limits that are designated by N.C.,
31 U.S. or Interstate numbers. The State secondary system shall include all of the State highway
32 system located both inside and outside municipal corporate limits that is not a part of the State
33 primary system. The State parks system shall include all State parks roads and parking lots that
34 are not also part of the State highway system. The transportation systems shall also include
35 State-maintained, nonhighway modes of transportation as well transportation.

36 (b) ~~All construction and maintenance~~ construction, maintenance, and improvement
37 programs for which appropriations are requested shall be enumerated separately in the budget.
38 Programs that are entirely State funded shall be listed separately from those programs involving
39 the use of federal-aid funds. Proposed appropriations of State matching funds for each of the
40 federal-aid construction programs shall be enumerated separately as well as the federal-aid
41 funds anticipated for each program in order that the total construction requirements for each
42 program may be provided for in the budget. Also, proposed State matching funds for the
43 highway planning and research program shall be included separately along with the anticipated
44 federal-aid funds for that purpose.

45 (c) Other program categories for which appropriations are requested, such as, but not
46 limited to, maintenance, channelization and traffic control, bridge maintenance, public service
47 and access road construction, transportation projects and systems, and ferry operations shall be
48 enumerated in the budget.

49 (d) The Department of Transportation shall have all powers necessary to comply fully
50 with provisions of present and future federal-aid acts. For purposes of this section, "federally
51 eligible construction project" means any construction project except secondary road projects

1 developed pursuant to G.S. 136-44.7 and 136-44.8 eligible for federal funds under any
2 federal-aid act, whether or not federal funds are actually available.

3 (e) The "Current Operations Appropriations Act" shall also contain the proposed
4 appropriations of State funds for use in each county for ~~maintenance~~—and
5 ~~construction~~construction, maintenance, and improvement of secondary roads, to be allocated in
6 accordance with G.S. 136-44.5 and 136-44.6. State funds appropriated for secondary roads
7 shall not be transferred nor used except for the ~~construction and maintenance~~construction,
8 maintenance, and improvement of secondary roads in the county for which they are allocated
9 pursuant to G.S. 136-44.5 and 136-44.6.

10"

11 **SECTION 34.19.(f) (Effective July 1, 2014)** G.S. 136-44.2, as rewritten by
12 subsection (e) of this section, reads as rewritten:

13 **"§ 136-44.2. Budget and appropriations.**

14 (a) The Director of the Budget shall include in the "Current Operations Appropriations
15 Act" an enumeration of the purposes or objects of the proposed expenditures for each of the
16 ~~construction, maintenance,~~maintenance and improvement programs for that budget period for
17 the State primary, secondary, State parks road systems, and other transportation systems. The
18 State primary system shall include all portions of the State highway system located both inside
19 and outside municipal corporate limits that are designated by N.C., U.S. or Interstate numbers.
20 The State secondary system shall include all of the State highway system located both inside
21 and outside municipal corporate limits that is not a part of the State primary system. The State
22 parks system shall include all State parks roads and parking lots that are not also part of the
23 State highway system. The transportation systems shall also include State-maintained,
24 nonhighway modes of transportation.

25 (b) All ~~construction, maintenance,~~maintenance and improvement programs for which
26 appropriations are requested shall be enumerated separately in the budget. Programs that are
27 entirely State funded shall be listed separately from those programs involving the use of
28 federal-aid funds. ~~Proposed appropriations of State matching funds for each of the federal-aid~~
29 ~~construction programs shall be enumerated separately as well as the federal-aid funds~~
30 ~~anticipated for each program in order that the total construction requirements for each program~~
31 ~~may be provided for in the budget. Also, proposed~~ Proposed State matching funds for the
32 highway planning and research program shall be included separately along with the anticipated
33 federal-aid funds for that purpose.

34 (c) Other program categories for which appropriations are requested, such as, but not
35 limited to, maintenance, channelization and traffic control, bridge maintenance, public service
36 and access road construction, transportation projects and systems, and ferry operations shall be
37 enumerated in the budget.

38 (d) The Department of Transportation shall have all powers necessary to comply fully
39 with provisions of present and future federal-aid acts. For purposes of this section, "federally
40 eligible construction project" means any construction project except secondary road projects
41 developed pursuant to ~~G.S. 136-44.7 and 136-44.8~~G.S. 136-44.8 eligible for federal funds
42 under any federal-aid act, whether or not federal funds are actually available.

43 (e) The "Current Operations Appropriations Act" shall also contain the proposed
44 appropriations of State funds for use in each county for ~~construction, maintenance,~~maintenance
45 and improvement of secondary roads, to be allocated in accordance with ~~G.S. 136-44.5 and~~
46 ~~136-44.6~~G.S. 136-44.6. State funds appropriated for secondary roads shall not be transferred
47 nor used except for the ~~construction, maintenance,~~maintenance and improvement of secondary
48 roads in the county for which they are allocated pursuant to ~~G.S. 136-44.5 and~~
49 ~~136-44.6~~G.S. 136-44.6.

50 ...

1 (g) The Department of Transportation may provide for costs incurred or accrued for
2 traffic control measures to be taken by the Department at major events which involve a high
3 degree of traffic concentration on State highways, and which cannot be funded from regular
4 budgeted items. This authorization applies only to events which are expected to generate
5 30,000 vehicles or more per day. The Department of Transportation shall provide for this
6 funding by allocating and reserving up to one hundred thousand dollars (\$100,000) before any
7 other allocations from the appropriations for State maintenance for ~~primary, secondary, and~~
8 ~~urban~~ primary and secondary road systems are made, based upon the same proportion as is
9 appropriated to each system."

10 **SECTION 34.19.(g)** G.S. 136-44.2A reads as rewritten:

11 "**§ 136-44.2A. Secondary road ~~improvement~~ construction program.**

12 There shall be annually allocated from the Highway Fund to the Department of
13 Transportation for secondary road ~~improvement~~ construction programs developed pursuant to
14 G.S. ~~136-44.7 and 136-44.8~~, a sum provided by law. ~~equal to that allocation made from the~~
15 ~~Highway Fund under G.S. 136-41.1(a). In addition, as provided in G.S. 136-176(b)(4) and~~
16 ~~G.S. 20-85(b), revenue is annually allocated from the Highway Trust Fund for secondary road~~
17 ~~construction. Of the funds allocated from the Highway Fund, the sum of sixty-eight million six~~
18 ~~hundred seventy thousand dollars (\$68,670,000) shall be allocated among the counties in~~
19 ~~accordance with G.S. 136-44.5(b). All funds allocated from the Highway Fund for secondary~~
20 ~~road improvements in excess of that amount shall be allocated among the counties in~~
21 ~~accordance with G.S. 136-44.5(c). All funds allocated from the Highway Trust Fund for~~
22 ~~secondary road improvement programs shall be allocated in accordance with G.S. 136-182."~~

23 **SECTION 34.19.(h) (Effective July 1, 2014)** G.S. 136-44.2A is repealed.

24 **SECTION 34.19.(i)** G.S. 136-44.2C is repealed.

25 **SECTION 34.19.(j) (Expires June 30, 2018)** Article 2A of Chapter 136 is
26 amended by adding a new section to read:

27 "**§ 136-44.2D. Secondary unpaved road paving program.**

28 The Department of Transportation shall expend funds allocated to the paving of unpaved
29 secondary roads for the paving of unpaved secondary roads based on a statewide prioritization.
30 The Department shall pave the eligible unpaved secondary roads that receive the highest
31 priority ranking within this statewide prioritization. Nothing in this subsection shall be
32 interpreted to require the Department to pave any unpaved secondary roads that do not meet
33 secondary road system addition standards as set forth in G.S. 136-44.10 and G.S. 136-102.6.
34 The Highway Trust Fund shall not be used to fund the paving of unpaved secondary roads."

35 **SECTION 34.19.(k)** G.S. 136-44.5 reads as rewritten:

36 "**§ 136-44.5. Secondary roads; mileage study; allocation of funds.**

37 (a) Before July 1, in each calendar year, the Department of Transportation shall make a
38 study of all State-maintained unpaved and paved secondary roads in the State. The study shall
39 determine:

- 40 (1) The number of miles of unpaved State-maintained roads in each county
41 eligible for paving and the total number of miles that are ineligible;
- 42 (2) The total number of miles of unpaved State-maintained roads in the State
43 eligible for paving and the total number of miles that are ineligible; and
- 44 (3) The total number of paved State-maintained roads in each county, and the
45 total number of miles of paved State-maintained roads in the State.

46 In this subsection, (i) ineligible unpaved mileage is defined as the number of miles of
47 unpaved roads that have unavailable rights-of-way or for which environmental permits cannot
48 be approved to allow for paving, and (ii) eligible unpaved mileage is defined as the number of
49 miles of unpaved roads that have not been previously approved for paving by any funding
50 source or has the potential to be programmed for paving when rights-of-way or environmental

1 permits are secured. Except for federal-aid programs, the Department shall allocate all
2 secondary road improvement funds on the basis of a formula using the study figures.

3 ~~(b) The first sixty-eight million six hundred seventy thousand dollars (\$68,670,000)~~
4 ~~shall be allocated as follows: Each county shall receive a percentage of these funds, the~~
5 ~~percentage to be determined as a factor of the number of miles of paved and unpaved~~
6 ~~State-maintained secondary roads in the county divided by the total number of miles of paved~~
7 ~~and unpaved State-maintained secondary roads in the State, excluding those unpaved secondary~~
8 ~~roads that have been determined to be eligible for paving as defined in subsection (a) of this~~
9 ~~section. Beginning in fiscal year 2010-2011, allocations pursuant to this subsection shall be~~
10 ~~The amounts appropriated by law for secondary road construction, excluding unpaved secondary~~
11 ~~road funds, shall be allocated among counties based on the total number of secondary miles in a~~
12 ~~county in proportion to the total State-maintained secondary road mileage.~~

13 ~~(c) Funds allocated for secondary road construction in excess of sixty-eight million six~~
14 ~~hundred seventy thousand dollars (\$68,670,000) shall be allocated to each county based on the~~
15 ~~percentage proportion that the number of miles in the county of State-maintained unpaved~~
16 ~~secondary roads bears to the total number of miles in the State of State-maintained unpaved~~
17 ~~secondary roads. In a county that has roads with eligible miles, these funds shall only be used~~
18 ~~for paving unpaved secondary road miles in that county. In a county where there are no roads~~
19 ~~eligible to be paved as defined in subsection (a) of this section, the funds may be used for~~
20 ~~improvements on the paved and unpaved secondary roads in that county. Beginning in fiscal~~
21 ~~year 2010-2011, allocations pursuant to this subsection shall be based on the total number of~~
22 ~~secondary miles in a county in proportion to the total State-maintained secondary road mileage.~~

23 ~~(d) Copies of the Department study of unpaved and paved State-maintained secondary~~
24 ~~roads and copies of the individual county allocations shall be made available to newspapers~~
25 ~~having general circulation in each county."~~

26 **SECTION 34.19.(l) (Effective July 1, 2014)** G.S. 136-44.5 is repealed.

27 **SECTION 34.19.(m)** G.S. 136-44.6 reads as rewritten:

28 **"§ 136-44.6. Uniformly applicable formula for the allocation of secondary roads**
29 **maintenance and improvement funds.**

30 The Department of Transportation shall develop a uniformly applicable formula for the
31 allocation of secondary roads maintenance and improvement funds for use in each county. The
32 formula shall take into consideration the number of paved and unpaved miles of
33 state-maintained secondary roads in each county and such other factors as experience may
34 dictate. This section shall not apply to projects to pave unpaved roads under G.S. 136-44.2D."

35 **SECTION 34.19.(n) Secondary Road Funding.** – Of the funds appropriated in this
36 act, the sum of fifteen million dollars (\$15,000,000) in nonrecurring funds for the 2013-2014
37 fiscal year is allocated from the Highway Fund for the secondary road construction program
38 under G.S. 136-44.2A, as enacted by subsection (g) of this section, and the sum of twelve
39 million dollars (\$12,000,000) in recurring funds for the 2013-2014 fiscal year is allocated from
40 the Highway Fund for the paving of unpaved roads pursuant to G.S. 136-44.2D, as enacted by
41 subsection (j) of this section.

42 **SECTION 34.19.(o)** G.S. 136-44.7 reads as rewritten:

43 **"§ 136-44.7. Secondary roads; annual work program; right-of-way acquisition.**

44 ~~(a) The Department of Transportation shall be responsible for developing criteria for~~
45 ~~improvements and maintenance of secondary roads. The criteria shall be adopted by the Board~~
46 ~~of Transportation before it shall become effective. The Department of Transportation shall be~~
47 ~~responsible for developing annual work programs for both construction and maintenance of~~
48 ~~secondary roads in each county in accordance with criteria developed. It shall reflect the~~
49 ~~long-range and immediate goals of the Department of Transportation. Projects on the annual~~
50 ~~construction program for each county shall be rated according to their priority based upon the~~
51 ~~secondary road criteria and standards which shall be uniform throughout the State. Tentative~~

1 construction projects and estimated funding shall also be listed in accordance to priority. The
2 annual construction program shall be adopted by the Board of Transportation before it shall
3 become effective.

4 (b) ~~When a secondary road in a county is listed in the first 10 secondary roads to be~~
5 ~~paved during a year on a priority list issued by the Department of Transportation under this~~
6 ~~section, the secondary road cannot be removed from the top 10 of that list or any subsequent~~
7 ~~list until it is paved. All secondary roads in a county shall be paved, insofar as possible, in the~~
8 ~~priority order of the list. When a secondary road in the top 10 of that list is removed from the~~
9 ~~list because it has been paved, the next secondary road on the priority list shall be moved up to~~
10 ~~the top 10 of that list and shall remain there until it is paved.~~

11 (c) ~~When it is necessary for the Department of Transportation to acquire a right-of-way~~
12 ~~in accordance with (a) and (b) of this section in order to pave a secondary road or undertake a~~
13 ~~maintenance project, the Department shall negotiate the acquisition of the right-of-way for a~~
14 ~~period of up to six months. At the end of that period, if one or more property owners have not~~
15 ~~dedicated the necessary right-of-way and at least seventy-five percent (75%) of the property~~
16 ~~owners adjacent to the project and the owners of the majority of the road frontage adjacent to~~
17 ~~the project have dedicated the necessary property for the right-of-way and have provided funds~~
18 ~~required by Department rule to the Department to cover the costs of condemning the remaining~~
19 ~~property, the Department shall initiate condemnation proceedings pursuant to Article 9 of this~~
20 ~~Chapter to acquire the remaining property necessary for the project.~~

21 (d) The Division Engineer is authorized to reduce the width of a right-of-way to less
22 than 60 feet to pave an unpaved secondary road with the allocated funds, provided that in all
23 circumstances the safety of the public is not compromised and the minimum accepted design
24 practice is satisfied."

25 SECTION 34.19.(p) G.S. 136-44.8 reads as rewritten:

26 "**§ 136-44.8. Submission of secondary roads construction and unpaved roads paving**
27 **programs to the Boards of County Commissioners.**

28 (a) ~~The Department of Transportation shall post in the county courthouse a county map~~
29 ~~showing tentative secondary road paving projects rated according to the priority of each project~~
30 ~~in accordance with the criteria and standards adopted by the Board of Transportation. The map~~
31 ~~shall be posted at least two weeks prior to the public meeting of the county commissioners at~~
32 ~~which the Department of Transportation representatives are to meet and discuss the proposed~~
33 ~~secondary road construction program for the county as provided in subsection (c).~~

34 (a1) Representatives of the Department of Transportation shall provide to the board of
35 county commissioners in each county the proposed secondary road construction program and,
36 if applicable to that county, a list of roads proposed for the annual paving program approved by
37 the Board of Transportation. If a paving priority list is presented, it shall include the priority
38 rating of each secondary road paving project included in the proposed paving program
39 according to the criteria and standards adopted by the Board of Transportation.

40 (b) ~~The Department of Transportation shall provide a notice to the public of the public~~
41 ~~meeting of the board of county commissioners at which the annual secondary road construction~~
42 ~~program for the county proposed by the Department is to be presented to the board and other~~
43 ~~citizens of the county as provided in subsection (c). The notice shall be published in a~~
44 ~~newspaper published in the county or having a general circulation in the county once a week~~
45 ~~for two succeeding weeks prior to the meeting. The notice shall also advise that a county map is~~
46 ~~posted in the courthouse showing tentative secondary road paving projects rated according to~~
47 ~~the priority of each project.~~

48 (c) ~~Representatives of the Department of Transportation shall meet with the board of~~
49 ~~county commissioners at a regular or special public meeting of the board of county~~
50 ~~commissioners for each county and present to and discuss with the board of county~~
51 ~~commissioners and other citizens present, the proposed secondary road construction program~~

1 for the county. The presentation and discussion shall specifically include the priority rating of
2 each tentative secondary road paving project included in the proposed construction program,
3 according to the criteria and standards adopted by the Board of Transportation.

4 At the same meeting after the presentation and discussion of the annual secondary road
5 construction program for the county or at a later meeting, the board of county commissioners
6 may (i) concur in the construction program as proposed, or (ii) take no action, or (iii) make
7 recommendations for deviations in the proposed construction program, except as to paving
8 projects and the priority of paving projects for which the board in order to make
9 recommendations for deviations, must vote to consider the matter at a later public meeting as
10 provided in subsection (d).

11 (d) The board of county commissioners may recommend deviations in the paving
12 projects and the priority of paving projects included in the proposed secondary road
13 construction program only at a public meeting after notice to the public that the board will
14 consider making recommendations for deviations in paving projects and the priority of paving
15 projects included in the proposed annual secondary road construction program. Notice of the
16 public meeting shall be published by the board of county commissioners in a newspaper
17 published in the county or having a general circulation in the county. After discussion by the
18 members of the board of county commissioners and comments and information presented by
19 other citizens of the county, the board of county commissioners may recommend deviations in
20 the paving projects and in the paving priority of secondary road projects included in the
21 proposed secondary road construction program. Any recommendation made by the board of
22 county commissioners for a deviation in the paving projects or in the priority for paving
23 projects in the proposed secondary road construction program shall state the specific reason for
24 each such deviation recommended.

25 (e) The Board of Transportation shall adopt the annual secondary construction program
26 for each county after having given the board of county commissioners of each county an
27 opportunity to review the proposed construction program and to make recommendations as
28 provided in this section. The Board of Transportation shall consider such recommendations
29 insofar as they are compatible with its general plans, standards, criteria and available funds, but
30 having due regard to development plans of the county and to the maintenance and improvement
31 needs of all existing roads in the county. However, no consideration shall be given to any
32 recommendation by the board of county commissioners for a deviation in the paving projects or
33 in the priority for paving secondary road projects in the proposed construction program that is
34 not made in accordance with subsection (d).

35 (f) The secondary road construction program and unpaved roads paving programs
36 adopted by the Board of Transportation shall be followed by the Department of Transportation
37 unless changes are approved by the Board of Transportation and notice of any changes is given
38 to the board of county commissioners. The Department of Transportation shall post a copy of
39 the adopted program, including a map showing the secondary road paving projects rated
40 according to the approved priority of each project, at the courthouse, within 10 days of its
41 adoption by the Board of Transportation. The board of county commissioners may petition the
42 Board of Transportation for review of any changes to which it does not consent and the
43 determination of the Board of Transportation shall be final. Upon request, the most recent
44 secondary road construction and unpaved roads paving programs adopted shall be submitted to
45 any member of the General Assembly. The Department of Transportation shall make the annual
46 construction program for each county available to the newspapers having a general circulation
47 in the county."

48 SECTION 34.19.(q) (Effective July 1, 2014) G.S. 136-44.8, as rewritten by
49 subsection (p) of this section, reads as rewritten:

50 "§ 136-44.8. Submission of unpaved secondary roads construction and unpaved roads
51 paving programs to the Boards of County Commissioners.

1 (a1) ~~Representatives~~ In each county having unpaved roads programmed for paving,
2 representatives of the Department of Transportation shall annually provide to the board of
3 county commissioners in ~~each county~~ those counties ~~the proposed secondary road construction~~
4 ~~program and, if applicable to that county,~~ a list of roads proposed for the annual paving
5 program approved by the Board of Transportation. ~~If a~~ The paving priority list is presented, it
6 shall include the priority rating of each secondary road paving project included in the proposed
7 paving program according to the criteria and standards adopted by the Board of Transportation.

8 (e) ~~The Board of Transportation shall adopt the annual secondary construction program~~
9 ~~for each county after having given the board of county commissioners of each county an~~
10 ~~opportunity to review the proposed construction program and to make recommendations as~~
11 ~~provided in this section. The Board of Transportation shall consider such recommendations~~
12 ~~insofar as they are compatible with its general plans, standards, criteria and available funds, but~~
13 ~~having due regard to development plans of the county and to the maintenance and improvement~~
14 ~~needs of all existing roads in the county.~~

15 (f) ~~The secondary road construction and unpaved~~ secondary roads paving programs
16 adopted by the Board of Transportation shall be followed by the Department of Transportation
17 unless changes are approved by the Board of Transportation and notice of any changes is given
18 to the board of county commissioners. Upon request, the most recent unpaved secondary road
19 ~~construction and unpaved~~ roads paving programs adopted shall be submitted to any member of
20 the General Assembly. The Department of Transportation shall make the annual construction
21 program for each affected county available to the newspapers having a general circulation in
22 the county."

23 **SECTION 34.19.(r)** G.S. 136-182 is repealed.

24 STATE AID TO MUNICIPALITIES/POWELL BILL CHANGES

25 **SECTION 34.19.(s)** G.S. 136-41.1 reads as rewritten:

26 **"§ 136-41.1. Appropriation to municipalities; allocation of funds generally; allocation to** 27 **Butner.**

28 (a) There is annually appropriated out of the State Highway Fund a sum equal to ten
29 and four-tenths percent (10.4%) of the net amount after refunds that was produced during the
30 fiscal year by a one and three-fourths cents (1 3/4¢) tax on each gallon of motor fuel taxed the
31 tax imposed under Article 36C of Chapter 105 of the General Statutes and on the equivalent
32 amount of alternative fuel taxed under Article 36D of that Chapter. One-half of the amount
33 appropriated shall be allocated in cash on or before October 1 of each year to the cities and
34 towns of the State in accordance with this section. The second one-half of the amount
35 appropriated shall be allocated in cash on or before January 1 of each year to the cities and
36 towns of the State in accordance with this section. ~~In addition, as provided in~~
37 ~~G.S. 136-176(b)(3), revenue is allocated and appropriated from the Highway Trust Fund to the~~
38 ~~cities and towns of this State to be used for the same purposes and distributed in the same~~
39 ~~manner as the revenue appropriated to them under this section from the Highway Fund. Like~~
40 ~~the appropriation from the Highway Fund, the appropriation from the Highway Trust Fund~~
41 ~~shall be based on revenue collected during the fiscal year preceding the date the distribution is~~
42 ~~made.~~

43
44 Seventy-five percent (75%) of the funds appropriated for cities and towns shall be
45 distributed among the several eligible municipalities of the State in the percentage proportion
46 that the population of each eligible municipality bears to the total population of all eligible
47 municipalities according to the most recent annual estimates of population as certified to the
48 Secretary of Revenue by the State Budget Officer. This annual estimation of population shall
49 include increases in the population within the municipalities caused by annexations
50 accomplished through July 1 of the calendar year in which these funds are distributed.
51 Twenty-five percent (25%) of said fund shall be distributed among the several eligible

1 municipalities of the State in the percentage proportion that the mileage of public streets in
2 each eligible municipality which does not form a part of the State highway system bears to the
3 total mileage of the public streets in all eligible municipalities which do not constitute a part of
4 the State highway system.

5 It shall be the duty of the mayor of each municipality to report to the Department of
6 Transportation such information as it may request for its guidance in determining the eligibility
7 of each municipality to receive funds under this section and in determining the amount of
8 allocation to which each is entitled. Upon failure of any municipality to make such report
9 within the time prescribed by the Department of Transportation, the Department of
10 Transportation may disregard such defaulting unit in making said allotment.

11 The funds to be allocated under this section shall be paid in cash to the various eligible
12 municipalities on or before October 1 and January 1 of each ~~year-year~~ as provided in this
13 section. Provided that eligible municipalities are authorized within the discretion of their
14 governing bodies to enter into contracts for the purpose of maintenance, repair, construction,
15 reconstruction, widening, or improving streets of such municipalities at any time after January
16 1 of any calendar year in total amounts not to exceed ninety percent (90%) of the amount
17 received by such municipality during the preceding fiscal year, in anticipation of the receipt of
18 funds under this section during the next fiscal year, to be paid for out of such funds when
19 received.

20 The Department of Transportation may withhold each year an amount not to exceed one
21 percent (1%) of the total amount appropriated for distribution under this section for the purpose
22 of correcting errors in allocations: Provided, that the amount so withheld and not used for
23 correcting errors will be carried over and added to the amount to be allocated for the following
24 year.

25 The word "street" as used in this section is hereby defined as any public road maintained by
26 a municipality and open to use by the general public, and having an average width of not less
27 than 16 feet. In order to obtain the necessary information to distribute the funds herein
28 allocated, the Department of Transportation may require that each municipality eligible to
29 receive funds under this section submit to it a statement, certified by a registered engineer or
30 surveyor of the total number of miles of streets in such municipality. The Department of
31 Transportation may in its discretion require the certification of mileage on a biennial basis.

32

33 **SECTION 34.19.(t)** G.S. 136-181 is repealed.

34 **SECTION 34.19.(u)** G.S. 136-41.3 reads as rewritten:

35 **"§ 136-41.3. Use of funds; records and annual statement; excess accumulation of funds;
36 contracts for maintenance, etc., of streets.**

37 (a) Uses of Funds. – The funds allocated to cities and towns under the provisions of
38 G.S. 136-41.2 shall be expended by said cities and towns only for the purpose of maintaining,
39 repairing, constructing, reconstructing or widening of any street or public thoroughfare
40 including bridges, drainage, curb and gutter, and other necessary appurtenances within the
41 corporate limits of the municipality or for meeting the municipality's proportionate share of
42 assessments levied for such purposes, or for the planning, construction and maintenance of
43 ~~bikeways located within the rights-of-way of public streets and highways, bikeways, greenways,~~
44 ~~or for the planning, construction, and maintenance of sidewalks along public streets and~~
45 ~~highways, sidewalks.~~

46 (b) Records and Annual Statement. – Each municipality receiving funds by virtue of
47 G.S. 136-41.1 and 136-41.2 shall maintain a separate record of accounts indicating in detail all
48 receipts and expenditures of such funds. It shall be unlawful for any municipal employee or
49 member of any governing body to authorize, direct, or permit the expenditure of any funds
50 accruing to any municipality by virtue of G.S. 136-41.1 and 136-41.2 for any purpose not
51 herein authorized. Any member of any governing body or municipal employee shall be

1 personally liable for any unauthorized expenditures. On or before the first day of August each
2 year, the treasurer, auditor, or other responsible official of each municipality receiving funds by
3 virtue of G.S. 136-41.1 and 136-41.2 shall file a statement under oath with the Secretary of
4 Transportation showing in detail the expenditure of funds received by virtue of G.S. 136-41.1
5 and 136-41.2 during the preceding year and the balance on hand.

6 (c) Excess Accumulation of Funds Prohibited. – No funds allocated to municipalities
7 pursuant to G.S. 136-41.1 and 136-41.2 shall be permitted to accumulate for a period greater
8 than permitted by this section. Interest on accumulated funds shall be used only for the
9 purposes permitted by the provisions of G.S. 136-41.3. Except as otherwise provided in this
10 section, any municipality having accumulated an amount greater than the sum of the past 10
11 allocations made, shall have an amount equal to such excess deducted from the next allocation
12 after receipt of the report required by this section. Such deductions shall be carried over and
13 added to the amount to be allocated to municipalities for the following year. Notwithstanding
14 the other provisions of this section, the Department shall adopt a policy to allow small
15 municipalities to apply to the Department to be allowed to accumulate up to the sum of the past
16 20 allocations if a municipality's allocations are so small that the sum of the past 10 allocations
17 would not be sufficient to accomplish the purposes of this section.

18 (d) Contracts for Maintenance and Construction. – In the discretion of the local
19 governing body of each municipality receiving funds by virtue of G.S. 136-41.1 and 136-41.2 it
20 may contract with the Department of Transportation to do the work of maintenance, repair,
21 construction, reconstruction, widening or improving the streets in such municipality; or it may
22 let contracts in the usual manner as prescribed by the General Statutes to private contractors for
23 the performance of said street work; or may undertake the work by force account. The
24 Department of Transportation within its discretion is hereby authorized to enter into contracts
25 with municipalities for the purpose of maintenance, repair, construction, reconstruction,
26 widening or improving streets of municipalities. And the Department of Transportation in its
27 discretion may contract with any city or town which it deems qualified and equipped so to do
28 that the city or town shall do the work of maintaining, repairing, improving, constructing,
29 reconstructing, or widening such of its streets as form a part of the State highway system.

30 In the case of each eligible municipality, as defined in G.S. 136-41.2, having a population
31 of less than 5,000, the Department of Transportation shall upon the request of such
32 municipality made by official action of its governing body, on or prior to June 1, 1953, or June
33 1 in any year thereafter, for the fiscal year beginning July 1, 1953, and for the years thereafter
34 do such street construction, maintenance, or improvement on nonsystem streets as the
35 municipality may request within the limits of the current or accrued payments made to the
36 municipality under the provisions of G.S. 136-41.1.

37 In computing the costs, the Department of Transportation may use the same rates for
38 equipment, rental, labor, materials, supervision, engineering and other items, which the
39 Department of Transportation uses in making charges to one of its own department or against
40 its own department, or the Department of Transportation may employ a contractor to do the
41 work, in which case the charges will be the contract cost plus engineering and inspection. The
42 municipality is to specify the location, extent, and type of the work to be done, and shall
43 provide the necessary rights-of-way, authorization for the removal of such items as poles, trees,
44 water and sewer lines as may be necessary, holding the Department of Transportation free from
45 any claim by virtue of such items of cost and from such damage or claims as may arise
46 therefrom except from negligence on the part of the Department of Transportation, its agents,
47 or employees.

48 If a municipality elects to bring itself under the provisions of the two preceding paragraphs,
49 it shall enter into a two-year contract with the Department of Transportation and if it desires to
50 dissolve the contract at the end of any two-year period it shall notify the Department of
51 Transportation of its desire to terminate said contract on or before April 1 of the year in which

1 such contract shall expire; otherwise, said contract shall continue for an additional two-year
2 period, and if the municipality elects to bring itself under the provisions of the two preceding
3 paragraphs and thereafter fails to pay its account to the Department of Transportation for the
4 fiscal year ending June 30, by August 1 following the fiscal year, then the Department of
5 Transportation shall apply the said municipality's allocation under G.S. 136-41.1 to this account
6 until said account is paid and the Department of Transportation shall not be obligated to do any
7 further work provided for in the two preceding paragraphs until such account is paid.

8 Section 143-129 of the General Statutes relating to the procedure for letting of public
9 contracts shall not be applicable to contracts undertaken by any municipality with the
10 Department of Transportation in accordance with the provisions of the three preceding
11 paragraphs.

12 (e) Permitted Offsets to Funding. – The Department of Transportation is authorized to
13 apply a municipality's share of funds allocated to a municipality under the provisions of
14 G.S. 136-41.1 to any of the following accounts of the municipality with the said Department of
15 Transportation, which the municipality fails to pay:

- 16 (1) Cost sharing agreements for right-of-way entered into pursuant to
17 G.S. 136-66.3, but not to exceed ten percent (10%) of any one year's
18 allocation until the debt is repaid,
- 19 (2) The cost of relocating municipally owned waterlines and other municipally
20 owned utilities on a State highway project which is the responsibility of the
21 municipality,
- 22 (3) For any other work performed for the municipality by the Department of
23 Transportation or its contractor by agreement between the Department of
24 Transportation and the municipality, and
- 25 (4) For any other work performed that was made necessary by the construction,
26 reconstruction or paving of a highway on the State highway system for
27 which the municipality is legally responsible."

28 **SECTION 34.19.(v)** G.S. 136-41.4 reads as rewritten:

29 **"§ 136-41.4. Municipal use of allocated funds; election.**

30 (a) A municipality that qualifies for an allocation of funds pursuant to G.S. 136-41.1
31 shall have the ~~option~~ following options:

- 32 (1) ~~to accept~~ Accept all or a portion of funds allocated to the municipality, under
33 that section, for the repair, maintenance, construction, reconstruction,
34 widening, or improving of the municipality's streets, streets.
- 35 (2) Use some or all of its allocation to match federal funds administered by the
36 Department for bicycle and pedestrian improvement projects within the
37 municipality's limits, or within the area of any metropolitan planning
38 organization or rural transportation planning organization.
- 39 (3) ~~or the municipality may elect~~ Elect to have some or all of the allocation
40 reprogrammed for any Transportation Improvement Project currently on the
41 approved project list within the municipality's limits or within the area of
42 any metropolitan planning organization or rural transportation planning
43 organization.

44 (b) If a municipality chooses to have its allocation reprogrammed, the ~~minimum~~ amount
45 that may be reprogrammed is an amount equal to that amount necessary to complete one full
46 phase of the project selected by the municipality or an amount that, when added to the amount
47 already programmed for the Transportation Improvement Project selected, would permit the
48 completion of at least one full phase of the project. The restriction set forth in this subsection
49 shall not apply to any bicycle or pedestrian projects."

50 **SECTION 34.19.(w)** Notwithstanding G.S. 136-41.4 or any other provision of law,
51 the Town of Caswell Beach may expend funds allocated to it pursuant to G.S. 136-41.1 for

1 maintenance, repair, reconstruction, or improvement of streets within the Town's corporate
2 limits that form a part of the State highway system. For purposes of this subsection,
3 "maintenance, repair, reconstruction, or improvement of streets" shall include drainage, curb
4 and gutter, and other necessary appurtenances as well as bikeways or sidewalks located within
5 the right-of-way of any State highway system component and within the corporate limits of the
6 Town.

7 **SECTION 34.19.(x)** DOT Municipal Lane Mile Study. – The Department of
8 Transportation shall collect lane mile data from each municipality eligible to receive funds
9 under this section no later than December 1, 2013. The Department shall report to the Joint
10 Legislative Transportation Oversight Committee no later than March 1, 2014, on at least three
11 options to shift the distribution formula to include lane mile data. The report shall include
12 advantages and disadvantages, fiscal impacts to each municipality, and any other technical
13 considerations in making such a change. The Joint Legislative Transportation Oversight
14 Committee and the Fiscal Research Division shall include in its recommendations to the 2014
15 Session of the 2013 General Assembly a new distribution formula, if the Committee finds that a
16 new formula is beneficial and practical.

17 18 **CONFORMING CHANGES**

19 **SECTION 34.19.(y)** G.S. 105-187.9 reads as rewritten:

20 **"§ 105-187.9. Disposition of tax proceeds.**

21 ...

22 ~~(b) **(Repealed effective July 1, 2013)** General Fund Transfer. — In each fiscal year, the~~
23 ~~State Treasurer shall transfer the amounts provided below from the taxes deposited in the Trust~~
24 ~~Fund to the General Fund. The transfer of funds authorized by this section may be made by~~
25 ~~transferring one fourth of the amount at the end of each quarter in the fiscal year or by~~
26 ~~transferring the full amount annually on July 1 of each fiscal year, subject to the availability of~~
27 ~~revenue.~~

28 ~~(1) The sum of twenty six million dollars (\$26,000,000).~~

29 ~~(2) In addition to the amount transferred under subdivision (1) of this~~
30 ~~subsection, the sum of one million seven hundred thousand dollars~~
31 ~~(\$1,700,000) shall be transferred in the 2001-2002 fiscal year. The amount~~
32 ~~distributed under this subdivision shall increase in the 2002-2003 fiscal year~~
33 ~~to the sum of two million four hundred thousand dollars (\$2,400,000). In~~
34 ~~each fiscal year thereafter, the sum transferred under this subdivision shall~~
35 ~~be the amount distributed in the previous fiscal year plus or minus a~~
36 ~~percentage of this sum equal to the percentage by which tax collections~~
37 ~~under this Article increased or decreased for the most recent 12-month~~
38 ~~period for which data are available.~~

39 ~~(c) **(Effective July 1, 2013)** Mobility Fund Transfer. — In each fiscal year, the State~~
40 ~~Treasurer shall transfer fifty eight million dollars (\$58,000,000) from the taxes deposited in the~~
41 ~~Trust Fund to the Mobility Fund. The transfer of funds authorized by this section may be made~~
42 ~~by transferring one fourth of the amount at the end of each quarter in the fiscal year or by~~
43 ~~transferring the full amount annually on July 1 of each fiscal year, subject to the availability of~~
44 ~~revenue."~~

45 **SECTION 34.19.(z)** G.S. 136-18 reads as rewritten:

46 **"§ 136-18. Powers of Department of Transportation.**

47 The said Department of Transportation is vested with the following powers:

48 ...

49 (12a) The Department of Transportation shall have such powers as are necessary
50 to establish, administer, and receive federal funds for a transportation
51 infrastructure banking program as authorized by the Intermodal Surface

1 Transportation Efficiency Act of 1991, Pub. L. 102-240, as amended, and
2 the National Highway System Designation Act of 1995, Pub. L. 104-59, as
3 amended. The Department of Transportation is authorized to apply for,
4 receive, administer, and comply with all conditions and requirements related
5 to federal financial assistance necessary to fund the infrastructure banking
6 program. The infrastructure banking program established by the Department
7 of Transportation may utilize federal and available State funds for the
8 purpose of providing loans or other financial assistance to governmental
9 units, including toll authorities, to finance the costs of transportation projects
10 authorized by the above federal aid acts. Such loans or other financial
11 assistance shall be subject to repayment and conditioned upon the
12 establishment of such security and the payment of such fees and interest
13 rates as the Department of Transportation may deem necessary. The
14 Department of Transportation is authorized to apply a municipality's share of
15 funds allocated under G.S. 136-41.1 or G.S. 136-44.20 as necessary to
16 ensure repayment of funds advanced under the infrastructure banking
17 program. The Department of Transportation shall establish jointly, with the
18 State Treasurer, a separate infrastructure banking account with necessary
19 fiscal controls and accounting procedures. Funds credited to this account
20 shall not revert, and interest and other investment income shall accrue to the
21 account and may be used to provide loans and other financial assistance as
22 provided under this subdivision. The Department of Transportation may
23 establish such rules and policies as are necessary to establish and administer
24 the infrastructure banking program. The infrastructure banking program
25 authorized under this subdivision shall not modify the ~~regional distribution~~
26 formula for the distribution of funds established by
27 ~~G.S. 136-17.2A~~ G.S. 136-189.10. Governmental units may apply for loans
28 and execute debt instruments payable to the State in order to obtain loans or
29 other financial assistance provided for in this subdivision. The Department
30 of Transportation shall require that applicants shall pledge as security for
31 such obligations revenues derived from operation of the benefited facilities
32 or systems, other sources of revenue, or their faith and credit, or any
33 combination thereof. The faith and credit of such governmental units shall
34 not be pledged or be deemed to have been pledged unless the requirements
35 of Article 4, Chapter 159 of the General Statutes have been met. The State
36 Treasurer, with the assistance of the Local Government Commission, shall
37 develop and adopt appropriate debt instruments for use under this
38 subdivision. The Local Government Commission shall develop and adopt
39 appropriate procedures for the delivery of debt instruments to the State
40 without any public bidding therefor. The Local Government Commission
41 shall review and approve proposed loans to applicants pursuant to this
42 subdivision under the provisions of Articles 4 and 5, Chapter 159 of the
43 General Statutes, as if the issuance of bonds was proposed, so far as those
44 provisions are applicable. Loans authorized by this subdivision shall be
45 outstanding debt for the purpose of Article 10, Chapter 159 of the General
46 Statutes.

47"

48 **SECTION 34.19.(aa)** G.S. 136-17.2A is repealed.

49 **SECTION 34.19.(bb)** G.S. 136-44.50(a) reads as rewritten:

50 "(a) A transportation corridor official map may be adopted or amended by any of the
51 following:

- 1 (1) The governing board of any local government for any thoroughfare included
 2 as part of a comprehensive plan for streets and highways adopted pursuant to
 3 G.S. 136-66.2 or for any proposed public transportation corridor included in
 4 the adopted long-range transportation plan.
- 5 (2) The Board of Transportation, or the governing board of any county, for any
 6 portion of the existing or proposed State highway system or for any public
 7 transportation corridor, to include rail, that is in the Transportation
 8 Improvement Program.
- 9 (3) Regional public transportation authorities created pursuant to Article 26 of
 10 Chapter 160A of the General Statutes or regional transportation authorities
 11 created pursuant to Article 27 of Chapter 160A of the General Statutes for
 12 any portion of the existing or proposed State highway system, or for any
 13 proposed public transportation corridor, or adjacent station or parking lot,
 14 included in the adopted long-range transportation plan.
- 15 (4) The North Carolina Turnpike Authority for any project being studied
 16 pursuant to G.S. 136-89.183.
- 17 (5) The Wilmington Urban Area Metropolitan Planning Organization for ~~any~~
 18 ~~project that is within its urbanized boundary and identified in~~
 19 ~~G.S. 136-179.~~ Department projects R-3300 and U-4751.

20 Before a city adopts a transportation corridor official map that extends beyond the
 21 extraterritorial jurisdiction of its building permit issuance and subdivision control ordinances,
 22 or adopts an amendment to a transportation corridor official map outside the extraterritorial
 23 jurisdiction of its building permit issuance and subdivision control ordinances, the city shall
 24 obtain approval from the Board of County Commissioners."

25 **SECTION 34.19.(cc)** G.S. 136-66.3 reads as rewritten:

26 **"§ 136-66.3. Local government participation in improvements to the State transportation**
 27 **system.**

28 ...
 29 ~~(c1) No TIP Disadvantage for Participation.—If a county or municipality participates in~~
 30 ~~a State transportation system improvement project, as authorized by this section, or by~~
 31 ~~G.S. 136-51 and G.S. 136-98, the Department shall ensure that the local government's~~
 32 ~~participation does not cause any disadvantage to any other project in the Transportation~~
 33 ~~Improvement Program under G.S. 143B-350(f)(4).~~

34 (c2) Distribution of State Funds Made Available by County or Municipal Participation. –
 35 Any State or federal funds allocated to a project that are made available by county or municipal
 36 participation in a project contained in the Transportation Improvement Program under
 37 G.S. 143B-350(f)(4) shall ~~remain in the same funding region that the funding was allocated to~~
 38 ~~under the distribution formula contained in G.S. 136-17.2A.~~ be subject to G.S. 136-189.11.

39 ~~(c3) Limitation on Agreements.—The Department shall not enter into any agreement~~
 40 ~~with a county or municipality to provide additional total funding for highway construction in~~
 41 ~~the county or municipality in exchange for county or municipal participation in any project~~
 42 ~~contained in the Transportation Improvement Program under G.S. 143B-350(f)(4).~~

43 ...
 44 (e1) Reimbursement Procedure. – Upon request of the county or municipality, the
 45 Department of Transportation shall allow the local government a period of not less than three
 46 years from the date construction of ~~the project~~ a project undertaken under subsection (e) of this
 47 section is initiated to reimburse the Department their agreed upon share of the costs necessary
 48 for the project. The Department of Transportation shall not charge a local government any
 49 interest during the initial three years.

50"

51 **SECTION 34.19.(dd)** G.S. 136-89.192 reads as rewritten:

1 **"§ 136-89.192. ~~Equity distribution~~ Applicability of formula.**

2 Only those funds applied to a Turnpike Project from the State Highway Fund, State
3 Highway Trust Fund, or federal-aid funds that might otherwise be used for other roadway
4 projects within the State, and are otherwise already subject to the ~~distribution~~-formula under
5 ~~G.S. 136-17.2A, G.S. 136-189.11~~ shall be included in the ~~distribution~~-formula.

6 Other revenue from the sale of the Authority's bonds or notes, project loans, or toll
7 collections shall not be included in the ~~distribution~~-formula."

8 **SECTION 34.19.(ee)** G.S. 136-175 reads as rewritten:

9 **"§ 136-175. Definitions.**

10 The following definitions apply in this Article:

11 (1) ~~Intrastate System. The network of major, multilane arterial highways~~
12 ~~composed of those routes, segments, or corridors listed in G.S. 136-178, and~~
13 ~~any other route added by the Department of Transportation under~~
14 ~~G.S. 136-178.~~

15 (2) ~~Transportation Improvement Program. The schedule of major transportation~~
16 ~~improvement projects required by G.S. 143B-350(f)(4).~~

17 (3) ~~Trust Fund. The North Carolina Highway Trust Fund."~~

18 **SECTION 34.19.(ff)** G.S. 136-176 reads as rewritten:

19 **"§ 136-176. Creation, revenue sources, and purpose of North Carolina Highway Trust**
20 **Fund.**

21 (a) A special account, designated the North Carolina Highway Trust Fund, is created
22 within the State treasury. The Trust Fund consists of the following revenue:

23 (1) Motor fuel, alternative fuel, and road tax revenue deposited in the Fund
24 under G.S. 105-449.125, 105-449.134, and 105-449.43, respectively.

25 (2) Motor vehicle use tax deposited in the Fund under G.S. 105-187.9.

26 (3) Revenue from the certificate of title fee and other fees payable under
27 G.S. 20-85.

28 (4) Repealed by Session Laws 2001-424, s. 27.1.

29 (5) Interest and income earned by the Fund.

30 (a1) ~~The Department shall use two hundred twenty million dollars (\$220,000,000) in~~
31 ~~fiscal year 2001-2002, two hundred twelve million dollars (\$212,000,000) in fiscal year~~
32 ~~2002-2003, and two hundred fifty five million dollars (\$255,000,000) in fiscal year 2003-2004~~
33 ~~of the cash balance of the Highway Trust Fund for the following purposes:~~

34 (1) ~~For primary route pavement preservation. One hundred seventy million~~
35 ~~dollars (\$170,000,000) in fiscal year 2001-2002, and one hundred fifty~~
36 ~~million dollars (\$150,000,000) in each of the fiscal years 2002-2003 and~~
37 ~~2003-2004. Up to ten percent (10%) of the amount for each of the fiscal~~
38 ~~years 2001-2002, 2002-2003, and 2003-2004 is available in that fiscal year,~~
39 ~~at the discretion of the Secretary of Transportation, for:~~

40 a. ~~Highway improvement projects that further economic growth and~~
41 ~~development in small urban and rural areas, that are in the~~
42 ~~Transportation Improvement Program, and that are individually~~
43 ~~approved by the Board of Transportation; or~~

44 b. ~~Highway improvements that further economic development in the~~
45 ~~State and that are individually approved by the Board of~~
46 ~~Transportation.~~

47 (2) ~~For preliminary engineering costs not included in the current year~~
48 ~~Transportation Improvement Program. Fifteen million dollars~~
49 ~~(\$15,000,000) in each of the fiscal years 2001-2002, 2002-2003, and~~
50 ~~2003-2004. If any funds allocated by this subdivision, in the cash balance of~~
51 ~~the Highway Trust Fund, remain unspent on June 30, 2008, the Department~~

1 may transfer within the Department up to twenty nine million dollars
2 (\$29,000,000) of available funds to contract for freight transportation system
3 improvements for the Global TransPark.

4 (3) For computerized traffic signal systems and signal optimization projects.—
5 Fifteen million dollars (\$15,000,000) in each of the fiscal years 2001-2002,
6 2002-2003, and 2003-2004.

7 (4) For public transportation twenty million dollars (\$20,000,000) in fiscal year
8 2001-2002, twenty five million dollars (\$25,000,000) in fiscal year
9 2002-2003, and seventy five million dollars (\$75,000,000) in fiscal year
10 2003-2004.

11 (5) For small urban construction projects.— Seven million dollars (\$7,000,000)
12 in fiscal year 2002-2003.

13 Funds authorized for use by the Department pursuant to this subsection shall remain available
14 to the Department until expended.

15 (a2) Repealed by Session Laws 2002-126, s. 26.4(b), effective July 1, 2002.

16 (a3) The Department may obligate three hundred million dollars (\$300,000,000) in fiscal
17 year 2003-2004 and four hundred million dollars (\$400,000,000) in fiscal year 2004-2005 of
18 the cash balance of the Highway Trust Fund for the following purposes:

19 (1) Six hundred thirty million dollars (\$630,000,000) for highway system
20 preservation, modernization, and maintenance, including projects to enhance
21 safety, reduce congestion, improve traffic flow, reduce accidents, upgrade
22 pavement widths and shoulders, extend pavement life, improve pavement
23 smoothness, and rehabilitate or replace deficient bridges; and for economic
24 development transportation projects recommended by local officials and
25 approved by the Board of Transportation.

26 (2) Seventy million dollars (\$70,000,000) for regional public transit systems,
27 rural and urban public transportation system facilities, regional
28 transportation and air quality initiatives, rail system track improvements and
29 equipment, and other ferry, bicycle, and pedestrian improvements. For any
30 project or program listed in this subdivision for which the Department
31 receives federal funds, use of funds pursuant to this subdivision shall be
32 limited to matching those funds.

33 Funds authorized for obligation and use by the Department pursuant to this subsection shall
34 remain available to the Department until expended.

35 (a4) Project selection pursuant to subsection (a3) of this section shall be based on
36 identified and documented need. Funds expended pursuant to subdivision (1) of subsection (a3)
37 of this section shall be distributed in accordance with the distribution formula in
38 G.S. 136-17.2A. No funds shall be expended pursuant to subsection (a3)(1) of this section on
39 any project that does not meet Department of Transportation standards for road design,
40 materials, construction, and traffic flow.

41 (a5) The Department shall report to the Joint Legislative Transportation Oversight
42 Committee, on or before September 1, 2003, on its intended use of funds pursuant to subsection
43 (a3) of this section. The Department shall report to the Joint Transportation Appropriations
44 Subcommittee, on or before May 1, 2004, on its actual current and intended future use of funds
45 pursuant to subsection (a3) of this section. The Department shall certify to the Joint Legislative
46 Transportation Oversight Committee each year, on or before November 1, that use of the
47 Highway Trust Fund cash balances for the purposes listed in subsection (a3) of this section will
48 not adversely affect the delivery schedule of any Highway Trust Fund projects. If the
49 Department cannot certify that the full amounts authorized in subsection (a3) of this section are
50 available, then the Department may determine the amount that can be used without adversely

1 affecting the delivery schedule and may proportionately apply that amount to the purposes set
2 forth in subsection (a3) of this section.

3 (b) Funds in the Trust Fund are annually appropriated to the Department of
4 Transportation to be allocated and used as provided in this subsection. A ~~sum, not to exceed~~
5 ~~four and eight tenths percent (4.8%) of the amount of revenue deposited in the Trust Fund~~
6 ~~under subdivisions (a)(1), (2), and (3) of this section~~ sum, in the amount appropriated by law,
7 may be used each fiscal year by the Department for expenses to administer the Trust Fund.
8 Operation and project development costs of the North Carolina Turnpike Authority are eligible
9 administrative expenses under this subsection. Any funds allocated to the Authority pursuant to
10 this subsection shall be repaid by the Authority from its toll revenue as soon as possible,
11 subject to any restrictions included in the agreements entered into by the Authority in
12 connection with the issuance of the Authority's revenue bonds. Beginning one year after the
13 Authority begins collecting tolls on a completed Turnpike Project, interest shall accrue on any
14 unpaid balance owed to the Highway Trust Fund at a rate equal to the State Treasurer's average
15 annual yield on its investment of Highway Trust Fund funds pursuant to G.S. 147-6.1. Interest
16 earned on the unpaid balance shall be deposited in the Highway Trust Fund upon repayment.
17 The sum up to the amount anticipated to be necessary to meet the State matching funds
18 requirements to receive federal-aid highway trust funds for the next fiscal year may be set aside
19 for that purpose. The rest of the funds in the Trust Fund shall be allocated and used as
20 follows: specified in G.S. 136-189.11.

- 21 (1) ~~Sixty one and ninety five hundredths percent (61.95%) to plan, design, and~~
22 ~~construct projects on segments or corridors of the Intrastate System as~~
23 ~~described in G.S. 136-178 and to pay debt service on highway bonds and~~
24 ~~notes that are issued under the State Highway Bond Act of 1996 and whose~~
25 ~~proceeds are applied to these projects.~~
- 26 (2) ~~Twenty five and five hundredths percent (25.05%) to plan, design, and~~
27 ~~construct the urban loops described in G.S. 136-180 and to pay debt service~~
28 ~~on highway bonds and notes that are issued under the State Highway Bond~~
29 ~~Act of 1996 and whose proceeds are applied to these urban loops.~~
- 30 (3) ~~Six and one half percent (6.5%) to supplement the appropriation to cities for~~
31 ~~city streets under G.S. 136-181.~~
- 32 (4) ~~Six and one half percent (6.5%) for secondary road construction as provided~~
33 ~~in G.S. 136-182 and to pay debt service on highway bonds and notes that are~~
34 ~~issued under the State Highway Bond Act of 1996 and whose proceeds are~~
35 ~~applied to secondary road construction.~~

36 The Department must administer funds allocated under subdivisions (1), (2), and (4) of this
37 ~~subsection~~ this section in a manner that ensures that sufficient funds are available to make the
38 debt service payments on bonds issued under the State Highway Bond Act of 1996 as they
39 become due.

40 (b1) ~~The Secretary may authorize the transfer of funds allocated under subdivisions (1)~~
41 ~~through (4) of subsection (b) of this section to other projects that are ready to be let and were to~~
42 ~~be funded from allocations to those subdivisions. The Secretary shall ensure that any funds~~
43 ~~transferred pursuant to this subsection are repaid promptly and in any event in no more than~~
44 ~~four years. The Secretary shall certify, prior to making any transfer pursuant to this subsection,~~
45 ~~that the transfer will not affect the delivery schedule of Highway Trust Fund projects in the~~
46 ~~current Transportation Improvement Program. No transfers shall be allowed that do not~~
47 ~~conform to the applicable provisions of the equity formula for distribution of funds,~~
48 ~~G.S. 136-17.2A. If the Secretary authorizes a transfer pursuant to this subsection, the Secretary~~
49 ~~shall report that decision to the next regularly scheduled meetings of the Joint Legislative~~
50 ~~Commission on Governmental Operations, the Joint Legislative Transportation Oversight~~
51 ~~Committee, and to the Fiscal Research Division.~~

1 (b2) **(Effective July 1, 2013)** There is annually appropriated to the North Carolina
2 Turnpike Authority from the Highway Trust Fund the sum of ~~one hundred twelve million~~
3 ~~dollars (\$112,000,000)~~ forty-nine million dollars (\$49,000,000). Of the amount allocated by
4 this subsection, twenty-five million dollars (\$25,000,000) shall be used to pay debt service or
5 related financing costs and expenses on revenue bonds or notes issued for the construction of
6 the Triangle Expressway, and twenty-four million dollars (\$24,000,000) shall be used to pay
7 debt service or related financing expenses on revenue bonds or notes issued for the construction
8 of the ~~Monroe Connector/Bypass~~, twenty-eight million dollars (\$28,000,000) shall be used to
9 ~~pay debt service or related financing expenses on revenue bonds or notes issued for the~~
10 ~~construction of the Mid-Currituck Bridge, and thirty-five million dollars (\$35,000,000) shall be~~
11 ~~used to pay debt service or related financing expenses on revenue bonds or notes issued for the~~
12 ~~construction of the Garden Parkway-Monroe Connector/Bypass~~. The amounts appropriated to
13 the Authority pursuant to this subsection shall be used by the Authority to pay debt service or
14 related financing costs and expenses on revenue bonds or notes issued by the Authority to
15 finance the costs of one or more Turnpike Projects, to refund such bonds or notes, or to fund
16 debt service reserves, operating reserves, and similar reserves in connection therewith. The
17 appropriations established by this subsection constitute an agreement by the State to pay the
18 funds appropriated hereby to the Authority within the meaning of G.S. 159-81(4).
19 Notwithstanding the foregoing, it is the intention of the General Assembly that the enactment
20 of this provision and the issuance of bonds or notes by the Authority in reliance thereon shall
21 not in any manner constitute a pledge of the faith and credit and taxing power of the State, and
22 nothing contained herein shall prohibit the General Assembly from amending the
23 appropriations made in this subsection at any time to decrease or eliminate the amount annually
24 appropriated to the Authority. Funds transferred from the Highway Trust Fund to the Authority
25 pursuant to this subsection are not subject to the ~~equity~~—formula in
26 ~~G.S. 136-17.2A-G.S. 136-189.10~~.

27 (e) ~~If funds are received under 23 U.S.C. Chapter 1, Federal Aid Highways, for a~~
28 ~~project for which funds in the Trust Fund may be used, the amount of federal funds received~~
29 ~~plus the amount of any funds from the Highway Fund that were used to match the federal funds~~
30 ~~may be transferred by the Secretary of Transportation from the Trust Fund to the Highway~~
31 ~~Fund and used for projects in the Transportation Improvement Program.~~

32 (d) A contract may be let for projects funded from the Trust Fund in anticipation of
33 revenues pursuant to the cash-flow provisions of G.S. 143C-6-11 only for the two bienniums
34 following the year in which the contract is let.

35 (e) **(Effective July 1, 2013)** Subject to ~~G.S. 136-17.2A and other funding distribution~~
36 ~~formulas, funds allocated under subdivisions (1), (3), and (4) of subsection (b) of this section~~
37 ~~may also G.S. 136-189.11, funds may be used for fixed guideway projects, including providing~~
38 ~~matching funds for federal grants for fixed guideway projects."~~

39 **SECTION 34.19.(gg)** The following statutes are repealed:

- 40 (1) G.S. 136-177.
- 41 (2) G.S. 136-177.1.
- 42 (3) G.S. 136-178.
- 43 (4) G.S. 136-179.
- 44 (5) G.S. 136-180.
- 45 (6) G.S. 136-184.
- 46 (7) G.S. 136-185.
- 47 (8) G.S. 136-187.
- 48 (9) G.S. 136-188.
- 49 (10) G.S. 136-189.

51 TURNPIKE AUTHORITY CHANGES

1 **SECTION 34.19.(hh)** G.S. 136-89.183(a)(2) reads as rewritten:

2 "**§ 136-89.183. Powers of the Authority.**

3 (a) The Authority shall have all of the powers necessary to execute the provisions of
4 this Article, including the following:

5 ...

6 (2) To study, plan, develop, and undertake preliminary design work on up to
7 ~~eight-nine~~ Turnpike Projects. At the conclusion of these activities, the
8 Turnpike Authority is authorized to design, establish, purchase, construct,
9 operate, and maintain the following projects:

- 10 a. Triangle Expressway, including segments also known as N.C. 540,
11 Triangle Parkway, and the Western Wake Freeway in Wake and
12 Durham Counties, and Southeast Extension in Wake and Johnston
13 Counties, except that no portion of the Southeast Extension shall be
14 located north of an existing protected corridor established by the
15 Department of Transportation circa 1995, except in the area of
16 Interstate 40 East Counties. The described segments constitute three
17 projects.
18 b. ~~Gaston East-West Connector, also known as the Garden Parkway.~~
19 c. Monroe Connector/Bypass.
20 d. ~~Cape Fear Skyway.~~
21 e. ~~A bridge of more than two miles in length going from the mainland~~
22 ~~to a peninsula bordering the State of Virginia, pursuant to~~
23 ~~G.S. 136-89.183A.~~

24 Any other project proposed by the Authority in addition to the projects listed
25 in this subdivision ~~must be approved by the General Assembly prior to~~
26 ~~construction.~~ subdivision requires prior consultation with the Joint
27 Legislative Commission on Governmental Operations pursuant to
28 G.S. 120-76.1 no less than 180 days prior to initiating the process required
29 by Article 7 of Chapter 159 of the General Statutes.

30 ~~A~~ With the exception of the four projects set forth in sub-subdivisions a. and
31 c. of this subdivision, the Turnpike Project-projects selected for construction
32 by the Turnpike Authority-Authority, prior to the letting of a contract for the
33 project, shall meet the following conditions: (i) two of the projects must be
34 ranked in the top 35 based on total score on the Department produced list
35 entitled "Mobility Fund Project Scores", dated June 6, 2012, and, in addition,
36 may be subject to G.S. 136-18(39a); (ii) of the projects not ranked as
37 provided in (i), one may be subject to G.S. 136-18(39a); (iii) the projects
38 shall be included in any applicable locally adopted comprehensive
39 transportation plans-andplans; (iv) the projects shall be shown in the current
40 State Transportation Improvement Plan prior to the letting of a contract for
41 the Turnpike Project.Program; and (v) toll projects must be approved by all
42 affected Metropolitan Planning Organizations and Rural Transportation
43 Planning Organizations for tolling."

44 **SECTION 34.19.(ii)** G.S. 136-18 reads as rewritten:

45 "**§ 136-18. Powers of Department of Transportation.**

46 The said Department of Transportation is vested with the following powers:

47 ...

- 48 (39a) a. The Department of Transportation or Turnpike Authority, as
49 applicable, may enter into a partnership agreement up to three
50 agreements with a private entity as provided under subdivision (39)
51 of this section for which the provisions of this section apply.~~The~~

1 ~~pilot project allowed under this subdivision must be one that is a~~
2 ~~candidate for funding under the Mobility Fund, that is planned for~~
3 ~~construction through a public-private partnership, and for which a~~
4 ~~Request for Qualifications has been issued by the Department no~~
5 ~~later than June 30, 2012.~~

6 b. A private entity or its contractors must provide performance and
7 payment security in the form and in the amount determined by the
8 Department of Transportation. The form of the performance and
9 payment security may consist of bonds, letters of credit, parent
10 guaranties, or other instruments acceptable to the Department of
11 Transportation.

12 c. Notwithstanding the provisions of G.S. 143B-426.40A, an agreement
13 entered into under this subdivision may allow the private entity to
14 assign, transfer, sell, hypothecate, and otherwise convey some or all
15 of its right, title, and interest in and to such agreement, and any rights
16 and remedies thereunder, to a lender, bondholder, or any other party.
17 However, in no event shall any such assignment create additional
18 debt or debt-like obligations of the State of North Carolina, the
19 Department, or any other agency, authority, commission, or similar
20 subdivision of the State to any lender, bondholder, entity purchasing
21 a participation in the right to receive the payment, trustee, trust, or
22 any other party providing financing or funding of projects described
23 in this section. The foregoing shall not preclude the Department from
24 making any payments due and owing pursuant to an agreement
25 entered into under this section.

26 d. ~~The Department of Transportation may fix, revise, charge, and~~
27 ~~collect tolls and fees to the same extent allowed under Article 6H of~~
28 ~~Chapter 136 of the General Statutes. Statutes shall apply to the~~
29 ~~Department of Transportation and to projects undertaken by the~~
30 ~~Department of Transportation under subdivision (39) of this section.~~
31 The Department may assign its authority under that Article to fix,
32 revise, charge, retain, enforce, and collect tolls and fees to the private
33 entity.

34 e. Any contract under this subdivision or under Article 6H of the
35 Chapter for the development, construction, maintenance, or operation
36 of a project shall provide for revenue sharing between the private
37 party and the Department. Excess toll revenues from a Turnpike
38 project shall be used for the funding or financing of transportation
39 projects within the corridor where the Turnpike Project is located.
40 For purposes of this subdivision, the term "excess toll revenues"
41 means those toll revenues derived from a Turnpike Project that are
42 not otherwise used or allocated to the Authority or a private entity
43 pursuant to this subdivision. For purposes of this subdivision, the
44 term "corridor" means (i) the right-of-way limits of the Turnpike
45 Project and any facilities related to the Turnpike Project or any
46 facility or improvement necessary for the use, design, construction,
47 operation, maintenance, repair, rehabilitation, reconstruction, or
48 financing of a Turnpike Project; (ii) the right-of-way limits of any
49 subsequent improvements, additions, or extension to the Turnpike
50 Project and facilities related to the Turnpike projects, including any
51 improvements necessary for the use, design, construction, operation,

1 maintenance, repair, rehabilitation, reconstruction, or financing of
2 those subsequent improvements, additions, or extensions to the
3 Turnpike Project; and (iii) roads used for ingress or egress to the toll
4 facility or roads that intersect with the toll facility, whether by ramps
5 or separated grade facility, and located within one mile in any
6 direction.

7 f. Agreements entered into under this subdivision shall comply with the
8 following additional provisions:

- 9 1. The Department shall solicit proposals for agreements.
- 10 2. Agreement shall be limited to no more than 50 years.
- 11 3. Notwithstanding the provisions of G.S. 136-89.183(a)(5), all
12 initial tolls or fees to be charged by a private entity shall be
13 reviewed by the Turnpike Board. Prior to setting a toll rate,
14 either a set rate or a minimum and maximum rate set by the
15 private entity, the private entity shall hold a public hearing on
16 the toll rates, in accordance with guidelines for the hearing
17 developed by the Department. After tolls go into effect, the
18 private entity shall report to the Turnpike Authority Board 30
19 days prior to any increase in tolls by the private entity.
- 20 4. Financial advisors and attorneys retained by the Department
21 on contract to work on projects pursuant to this subsection
22 shall be subject to State law governing conflicts of interest.
- 23 5. Sixty days prior to the signing of a concession agreement
24 subject to this subdivision, the Department shall report to the
25 Joint Legislative Transportation Oversight Committee on the
26 following:
 - 27 I. Project description.
 - 28 II. Number of years that tolls will be in place.
 - 29 III. Name and location of firms and parent companies, if
30 applicable, including firm responsibility and stake,
31 and assessment of audited financial statements.
 - 32 IV. Analysis of firm selection criteria.
 - 33 V. Name of any firm or individual under contract to
34 provide counsel or financial analysis to the
35 Department or Authority. The Department shall
36 disclose payments to these contractors related to
37 completing the agreement under this subdivision.
 - 38 VI. Demonstrated ability of the project team to deliver the
39 project, by evidence of the project team's prior
40 experience in delivering a project on schedule and
41 budget, and disclosure of any unfavorable outcomes
42 on prior projects.
 - 43 VII. Detailed description of method of finance, including
44 sources of funds, State contribution amounts,
45 including schedule of availability payments and terms
46 of debt payments.
 - 47 VIII. Information on assignment of risk shared or assigned
48 to State and private partner.
 - 49 IX. Information on the feasibility of finance as obtained in
50 traffic and revenue studies.

1 6. The Turnpike Authority annual report under G.S. 136-89.193
 2 shall include reporting on all revenue collections associated
 3 with projects subject to this subdivision under the Turnpike
 4 Authority.

5 7. The Department shall develop standards for entering into
 6 comprehensive agreements with private entities under the
 7 authority of this subdivision and report those standards to the
 8 Joint Legislative Transportation Oversight Committee on or
 9 before October 1, 2013.

10 ...

11 (43) For the purposes of financing an agreement under subdivision (39a) of this
 12 section, the Department of Transportation may act as a conduit issuer for
 13 private activity bonds to the extent the bonds do not constitute a debt
 14 obligation of the State. The issuance of private activity bonds under this
 15 subdivision and any related actions shall be governed by The State and Local
 16 Government Revenue Bond Act, Article 5 of Chapter 159 of the General
 17 Statutes, with G.S. 159-88 satisfied by adherence to the requirements of
 18 subdivisions ~~(39)~~ and subdivision (39a) of this section."

19 **SECTION 34.19.(jj)** G.S. 136-89.183(a)(5) reads as rewritten:

20 **"§ 136-89.183. Powers of the Authority.**

21 (a) The Authority shall have all of the powers necessary to execute the provisions of
 22 this Article, including the following:

23 ...

24 (5) To fix, revise, charge, retain, enforce, and collect tolls and fees for the use of
 25 the Turnpike Projects. Prior to the effective date of any toll or fee for use of
 26 a Turnpike Facility, the Authority shall submit a description of the proposed
 27 toll or fee to the Board of Transportation, the Joint Legislative
 28 Transportation Oversight Committee and the Joint Legislative Commission
 29 on Governmental Operations for review.

30 "

31 **SECTION 34.19.(kk)** G.S. 136-89.188 reads as rewritten:

32 **"§ 136-89.188. Use of revenues.**

33 (a) Revenues derived from Turnpike Projects authorized under this Article shall be used
 34 only for the following:

- 35 (1) Authority administration ~~costs~~; costs.
- 36 (2) Turnpike Project development, right-of-way acquisition, ~~design,~~
 37 construction, operation, ~~and maintenance;~~ maintenance, reconstruction,
 38 rehabilitation, and replacement. ~~and~~
- 39 (3) ~~debt~~ Debt service on the Authority's revenue bonds or related purposes such
 40 as the establishment of debt service reserve ~~funds~~ funds.
- 41 (4) Debt service, debt service reserve funds, and other financing costs related to
 42 any of the following:
 - 43 a. A financing undertaken by a private entity under a partnership
 44 agreement with the entity for a Turnpike Project.
 - 45 b. Private activity bonds issued under law related to a Turnpike Project.
 - 46 c. Any federal or State loan, line of credit, or loan guarantee relating to
 47 a Turnpike Project.
- 48 (5) A return on investment of any private entity under a partnership agreement
 49 with the entity for a Turnpike Project.
- 50 (6) Any other uses granted to a private entity under a partnership agreement
 51 with the entity for a Turnpike Project.

1 (b) The Authority may use up to one hundred percent (100%) of the revenue derived
2 from a Turnpike Project for debt service on the Authority's revenue bonds or for a combination
3 of debt service and operation and maintenance expenses of the Turnpike Projects.

4 (c) The Authority shall use not more than five percent (5%) of total revenue derived
5 from all Turnpike Projects for Authority administration costs.

6 (d) Notwithstanding the provisions of subsections (a) and (b) of this section, toll
7 revenues generated from a converted segment of the State highway system previously planned
8 for operation as a nontoll facility shall only be used for the funding or financing of the right of
9 way acquisition, construction, expansion, operations, maintenance, and Authority
10 administration costs associated with the converted segment or a contiguous toll facility."

11 **SECTION 34.19.(ll)** Part 1 of Article 6H of Chapter 136 of the General Statutes is
12 amended by adding a new section to read:

13 **"§ 136-89.199. Designation of high-occupancy toll and managed lanes.**

14 Notwithstanding any other provision of this Article, the Authority may designate one or
15 more lanes of any highway, or portion thereof, within the State, including lanes that may
16 previously have been designated as HOV lanes under G.S. 20-146.2, as high-occupancy toll
17 (HOT) or other type of managed lanes; provided, however, that such designation shall not
18 reduce the number of existing general purpose lanes. In making such designations, the
19 Authority shall specify the high-occupancy requirement or other conditions for use of such
20 lanes, which may include restricting vehicle types, access controls, or the payment of tolls for
21 vehicles that do not meet the high-occupancy requirements or conditions for use."

22 **SECTION 34.19.(mm)** Part 2 of Article 6H of Chapter 136 of the General Statutes
23 reads as rewritten:

24 "Part 2. Collection of Tolls on Turnpike Projects.

25 ...

26 **"§ 136-89.212. Payment of toll required for use of Turnpike project.**

27 (a) A motor vehicle that is driven on a Turnpike project is subject to a toll imposed by
28 the Authority for the use of the project. If the toll is an open road toll, the person who is the
29 registered owner of the motor vehicle is liable for payment of the toll unless the registered
30 owner establishes that the motor vehicle was in the care, custody, and control of another person
31 when it was driven on the Turnpike project.

32 (b) A person establishes that a motor vehicle was in the care, custody, and control of
33 another person when it was driven on a Turnpike project by submitting to the Authority a
34 sworn affidavit stating one of the following:

- 35 (1) The name and address of the person who had the care, custody, and control of
36 the motor vehicle when it was driven. If the motor vehicle was leased or
37 rented under a long-term lease or rental, as defined in G.S. 105-187.1, the
38 affidavit must be supported by a copy of the lease or rental agreement or
39 other written evidence of the agreement.
- 40 (2) The motor vehicle was stolen. The affidavit must be supported by an
41 insurance or police report concerning the theft or other written evidence of
42 the theft.
- 43 (3) The person transferred the motor vehicle to another person by sale or
44 otherwise before it was driven on the Turnpike project. The affidavit must be
45 supported by insurance information, a copy of the certificate of title, or other
46 evidence of the transfer.

47 (c) If a person establishes that a motor vehicle was in the care, custody, and control of
48 another person under subsection (b) of this section, the other person shall be liable for the
49 payment of the toll, and the Authority may send a bill to collect and enforce the toll in
50 accordance with this Article; provided, however, that such other person may contest such toll in
51 accordance with this Article.

"§ 136-89.213. Administration of tolls and requirements for open road tolls.

(a) Administration. – The Authority is responsible for collecting tolls on Turnpike projects. In exercising its authority under G.S. 136-89.183 to perform or procure services required by the Authority, the Authority may contract with one or more providers to perform part or all of the collection functions and may enter into agreements to exchange information, including confidential information under subsection (a1) of this section, that identifies motor vehicles and their owners with one or more of the following entities: the Division of Motor Vehicles of the Department of Transportation, another state, another toll operator, ~~or~~ a toll collection-related ~~organization~~organization, or a private entity that has entered into a partnership agreement with the Authority pursuant to G.S. 136-89.183(a)(17). Further, the Authority may assign its authority to fix, revise, charge, retain, enforce, and collect tolls and fees under this Article to a private entity that has entered into a partnership agreement with the Authority pursuant to G.S. 136-89.183(a)(17).

...

(b) Open Road Tolls. – If a Turnpike project uses an open road tolling system, the Authority must operate a facility that is in the immediate vicinity of the Turnpike project ~~and that accepts~~or provide an alternate means to accept cash payment of the toll and must place signs on the Turnpike project that give drivers the following information:

- (1) Notice that the driver is approaching a highway for which a toll is required. Signs providing this information must be placed before the toll is incurred.
- (2) The methods by which the toll may be paid.
- (3) ~~Directions~~If applicable, directions to the nearby facility that accepts cash payment of the toll.

"§ 136-89.214. Bill for unpaid open road toll.

(a) Bill. – If a motor vehicle travels on a Turnpike project that uses an open road tolling system and a toll for traveling on the project is not paid prior to travel or at the time of travel, the Authority must send a bill by first-class mail to the registered owner of the motor vehicle or the person who had care, custody, and control of the vehicle as established under G.S. 136-89.212(b) for the amount of the unpaid toll. The Authority must send the bill within 90 days after the travel ~~occurs~~occurs, or within 90 days of receipt of a sworn affidavit submitted under G.S. 136-89.212(b) identifying the person who had care, custody, and control of the motor vehicle. If a bill is not sent within the required time, the Authority waives collection of the toll. The Authority must establish a billing period for unpaid open road tolls that is no shorter than 15 days. A bill for a billing period must include all unpaid tolls incurred by the same person during the billing period.

(b) Information on Bill. – A bill sent under this section must include all of the following information:

- (1) The name and address of the registered owner of the motor vehicle that traveled on the Turnpike ~~project~~project or of the person identified under G.S. 136-89.212(b).
- (2) The date the travel occurred, the approximate time the travel occurred, and each segment of the Turnpike project on which the travel occurred.
- (3) An image of the registration plate of the motor vehicle, if the Authority captured an electronic image of the motor vehicle when it traveled on the Turnpike project.
- (4) The amount of the toll due and an explanation of how payment may be made.
- (5) The date by which the toll must be paid to avoid the imposition of a processing fee under G.S. 136-89.215 and the amount of the processing fee.

1 (6) A statement that a vehicle owner who has unpaid tolls is subject to a civil
2 penalty and may not renew the vehicle's registration until the tolls and civil
3 penalties are paid.

4 (7) A clear and concise explanation of how to contest liability for the toll.

5 (8) If applicable, a copy of the affidavit submitted under G.S. 136-89.212(b)
6 identifying the person with care, custody, and control of the motor vehicle.

7 **"§ 136-89.215. Required action upon receiving bill for open road toll and processing fee**
8 **for unpaid toll.**

9 (a) Action Required. – A person who receives a bill from the Authority for an unpaid
10 open road toll must take one of the following actions within 30 days of the date of the bill:

11 (1) Pay the bill.

12 (2) Send a written request to the Authority for a review of the toll.

13 (b) Fee. – If a person does not take one of the actions required under subsection (a) of
14 this section within the required time, the Authority may add a processing fee to the amount the
15 person owes. The processing fee may not exceed six dollars (\$6.00). A person may not be
16 charged more than forty-eight dollars (\$48.00) in processing fees in a 12-month period.

17 The Authority must set the processing fee at an amount that does not exceed the costs of
18 ~~collecting the unpaid toll, identifying the owner of a motor vehicle that is subject to an unpaid~~
19 ~~toll and billing the owner for the unpaid toll. The fee is a receipt of the Authority and must be~~
20 ~~applied to these costs.~~

21"

22 **SECTION 34.19.(nn)** DOT/Southeast Extension-Triangle Expressway. – The
23 Department of Transportation shall strive to expedite the federal environmental impact
24 statement process to define the route for the Southeast Extension of the Triangle Expressway
25 Turnpike Project by promptly garnering input from local officials and other stakeholders,
26 accelerating any required State studies, promptly submitting permit applications to the federal
27 government, working closely with the federal government during the permitting process, and
28 taking any other appropriate actions to accelerate the environmental permitting process.

29 **SECTION 34.19.(oo)** Monitoring. – As part of its oversight of the Department of
30 Transportation, the Joint Legislative Transportation Oversight Committee shall closely monitor
31 the progress of the Southeast Extension of the Triangle Expressway Turnpike Project.

32 **SECTION 34.19.(pp)** G.S. 143B-350 reads as rewritten:

33 **"§ 143B-350. Board of Transportation – organization; powers and duties, etc.**

34 ...

35 (b) Membership of the Board. –

36 (1) Number, appointment. – The Board of Transportation shall have ~~19~~²¹ voting
37 members. Fourteen of the members shall be division members appointed by
38 the Governor. Five shall be at-large members appointed by the Governor.
39 One shall be an at-large member appointed by the General Assembly upon
40 recommendation of the President Pro Tempore of the Senate, and one shall
41 be an at-large member appointed by the General Assembly upon
42 recommendation of the Speaker of the House of Representatives. At least
43 three members of the Board appointed by the Governor shall be registered
44 voters of a political party other than the political party of the Governor. The
45 Secretary of Transportation shall serve as an ex officio nonvoting member of
46 the ~~Board.~~Board with the exception set forth in subsection (f3) of this
47 section. No more than two members of the Board appointed by the Governor
48 may reside in the same highway division.

49 (2) Division members. – One member shall be appointed from and be a resident
50 of each of the 14 highway divisions. The Governor, in selecting division
51 members, shall consider for appointment persons suggested by the

1 Transportation Advisory Committees located within each division. Division
2 members shall direct their primary effort to developing transportation policy
3 and addressing transportation problems in the region they represent. Division
4 members shall regularly consult with and consider the views of local
5 government units and Transportation Advisory Committees in the region
6 they represent.

7 (3) At-large members. – Five members shall be appointed by the Governor from
8 the State at large. At-large members appointed pursuant to this subdivision
9 shall develop transportation policy and address transportation problems with
10 a statewide perspective. At-large members appointed under this subdivision
11 shall possess the following qualifications:

- 12 a. One at-large member shall be a person with expertise in
13 environmental issues affecting the State;
- 14 b. One at-large member shall be a person familiar with the State ports
15 and aviation issues;
- 16 c. One at-large member shall be a person residing in a rural area of the
17 State with broad knowledge of and experience in transportation
18 issues affecting rural areas;
- 19 d. One at-large member shall be a person residing in an urban area with
20 broad knowledge of and expertise in mass transit;
- 21 e. One at-large member shall be a person with broad knowledge of and
22 expertise in government-related finance and accounting.

23 (c) ~~Staggered Terms. – The terms of all Board members serving on the Board prior to~~
24 ~~January 15, 2001, shall expire on January 14, 2001. A new board of 19 members shall be~~
25 ~~appointed with terms beginning on January 15, 2001. The Board shall serve the following~~
26 ~~terms: division members representing divisions 1, 3, 5, 7, 9, 11, and 13 and the three at-large~~
27 ~~members filling the positions designated in sub-subdivisions (b)(3)a., b., and e. of this section~~
28 ~~shall serve four year terms beginning on January 15, 2001, and four year terms thereafter; and~~
29 ~~division members representing divisions 2, 4, 6, 8, 10, 12, and 14 and the two at-large members~~
30 ~~filling the positions designated in sub-subdivisions (b)(3)c. and d. of this section shall serve~~
31 ~~two year terms beginning January 15, 2001, and four year terms thereafter. The terms of~~
32 ~~members shall be for four years beginning January 15, 2013, and quadrennially thereafter,~~
33 ~~except that the terms of at-large members appointed by the General Assembly shall be for two~~
34 ~~years beginning on January 15, 2013, and biennially thereafter.~~

35 ...

36 (f3) There is created the Turnpike Committee of the Board of Transportation. The
37 Committee shall consist of the Secretary of Transportation, serving as a voting member ex
38 officio, and the following six Board members:

- 39 (1) Three division board members selected by the Secretary, one from the
40 members representing divisions 1 through 4, one from the members
41 representing divisions 5 through 10, and one from the members representing
42 divisions 11 through 14.
- 43 (2) The two at-large board members appointed by the General Assembly under
44 subdivision (b)(1) of this section.
- 45 (3) The at-large board member appointed by the Governor under
46 sub-subdivision (b)(3)e. of this section.

47 The Chair of the Committee shall be the Secretary of Transportation.

48"

49 **SECTION 34.19.(qq)** The terms of the nine members of the Board of
50 Transportation previously appointed for terms expiring January 14, 2015, expire upon

1 appointment of their replacements as provided in this section. The Governor shall designate for
2 each of the nine new appointments which member is being replaced.

3 **SECTION 34.19.(rr)** G.S. 136-89.182 reads as rewritten:

4 **"§ 136-89.182. North Carolina Turnpike Authority.**

5 (a) Creation. – There is created a body politic and corporate to be known as the "North
6 Carolina Turnpike Authority". The Authority is constituted as a public agency, and the exercise
7 by the Authority of the powers conferred by this Article in the construction, operation, and
8 maintenance of toll roads and bridges shall be deemed and held to be the performance of an
9 essential governmental function.

10 (b) Administrative Placement. – The Authority shall be located within the Department
11 of Transportation and shall be subject to and under the direct supervision of the Secretary of
12 Transportation.

13 (c) Authority Board. – The Turnpike Committee of the Board of Transportation shall
14 serve ex officio as the Authority Board of the North Carolina Turnpike Authority.

15 ~~The North Carolina Turnpike Authority shall be governed by a nine member Authority~~
16 ~~Board consisting of two members appointed by the General Assembly upon the~~
17 ~~recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121,~~
18 ~~two members appointed by the General Assembly upon the recommendation of the Speaker of~~
19 ~~the House of Representatives in accordance with G.S. 120-121, four members appointed by the~~
20 ~~Governor, and the Secretary of Transportation. Each appointing authority shall appoint~~
21 ~~members who reside in diverse regions of the State. The Chair of the Authority shall be~~
22 ~~selected by the Authority Board.~~

23 ~~(d) Board of Transportation Members. — Members of the North Carolina Board of~~
24 ~~Transportation may serve as members of the Authority Board.~~

25 ~~(e) Staggered Terms. — One of the initial appointments to the Authority Board by the~~
26 ~~General Assembly upon the recommendation of the President Pro Tempore of the Senate, one~~
27 ~~of the initial appointments to the Authority Board by the General Assembly upon the~~
28 ~~recommendation of the Speaker of the House of Representatives, and three of the initial~~
29 ~~appointments of the Governor shall be appointed to terms ending January 14, 2007. One of the~~
30 ~~initial appointments to the Authority Board by the General Assembly upon the recommendation~~
31 ~~of the President Pro Tempore of the Senate, one of the initial appointments to the Authority~~
32 ~~Board by the General Assembly upon the recommendation of the Speaker of the House of~~
33 ~~Representatives, and one of the initial appointments of the Governor shall be appointed to~~
34 ~~terms ending January 14, 2005. The Secretary of Transportation shall serve as an ex officio~~
35 ~~voting member of the Board. Thereafter, at the expiration of each stipulated term of office, all~~
36 ~~appointments shall be to a term of four years from the date of the expiration of the term.~~

37 ~~(f) Vacancies. — All members of the Authority Board shall remain in office until their~~
38 ~~successors are appointed and qualified. The original appointing authority may appoint a~~
39 ~~member to serve out the unexpired term of any member.~~

40 ~~(g) Removal of Board Members. — Each member of the Authority Board,~~
41 ~~notwithstanding subsection (e) of this section, shall serve at the pleasure of the appointing~~
42 ~~authority. The Chair of the Authority serves at the pleasure of the Authority Board.~~

43 ~~(h) Conflicts of Interest, Ethics. — Members of the Authority Board shall be subject to~~
44 ~~the provisions of G.S. 136-13, 136-13.1, and 136-14.~~

45 (i) Compensation. – The appointed members of the Authority Board shall receive no
46 salary for their services but shall be entitled to receive per diem and travel allowances in
47 accordance with the provisions of G.S. 138-5 and G.S. 138-6 as appropriate.

48 (j) Bylaws. – The Authority Board shall adopt, change, or amend bylaws with respect
49 to the calling of meetings, quorums, voting procedures, the keeping of records, and other
50 organizational, staffing, and administrative matters as the Authority Board may determine. Any

1 bylaws, or subsequent changes or amendments to the bylaws, shall be included in the Annual
2 Report as required by G.S. 136-89.193.

3 ~~(k) Executive Director and Administrative Employees: Chief Administrative Officer. –~~
4 ~~The Authority Board shall appoint an Executive Director, whose salary shall be fixed by the~~
5 ~~Authority, to serve at its pleasure. The Secretary of Transportation shall designate The~~
6 ~~Executive Director shall be the Authority's chief administrative officer and officer, who shall be~~
7 ~~responsible for the daily administration of the toll roads and bridges constructed, maintained, or~~
8 ~~operated pursuant to this Article. The Executive Director or his designee shall appoint, employ,~~
9 ~~dismiss, and, within the limits approved by the Authority Board, fix the compensation of~~
10 ~~administrative employees as the Executive Director deems necessary to carry out this Article.~~

11 (l) Office. – The offices of the Authority may be housed in one or more facilities of the
12 Department of Transportation."
13

14 **TRANSITION STUDY AND REPORTING REQUIREMENTS**

15 **SECTION 34.19.(ss)** Formula Implementation Report. – The Department of
16 Transportation shall report to the Joint Legislative Transportation Oversight Committee and the
17 Fiscal Research Division no later than August 15, 2013, on the Department's recommended
18 formulas that will be used in the prioritization process to rank highway and nonhighway
19 projects. The Department of Transportation's Prioritization Office shall develop the
20 prioritization processes and formulas for all modes of transportation. The report will include a
21 statement on the process used by the Department to develop the formulas, include a listing of
22 external partners consulted during this process, and include feedback from its 3.0 workgroup
23 partners on the Department's proposed recommendations. The Department shall not finalize the
24 formula without consulting with the Joint Legislative Transportation Oversight Committee. The
25 Joint Legislative Transportation Oversight Committee has 30 days after the report is received to
26 meet and consult on the Department's recommendations. If no meeting occurs within 30 days
27 after the report is received, the consultation requirement will be met. If consultation occurs and
28 a majority of members serving on the Committee request changes to the Department's
29 recommended formulas for highway and nonhighway modes, the Department shall review the
30 requests and provide to the Committee its response to the requested changes no later than
31 October 1, 2013. A final report on the highway and intermodal formulas shall be submitted to
32 the Joint Legislative Transportation Oversight Committee by January 1, 2014.

33 **SECTION 34.19.(tt)** State Transportation Improvement Program Transition
34 Report. – The Department of Transportation shall submit transition reports to members of the
35 Joint Legislative Transportation Oversight Committee, House Appropriations Subcommittee on
36 Transportation and the Senate Appropriations Committee on Department of Transportation, and
37 the Fiscal Research Division on March 1, 2014, and November 1, 2014. The reports shall
38 include information on the Department's transition to Strategic Prioritization, overview changes
39 to the State Transportation Improvement Program (STIP) and other internal and external
40 processes that feed into the STIP, and offer statutory and policy recommendations or items for
41 consideration to the General Assembly that will enhance the prioritization process. The March
42 1, 2014, report shall also include an analysis of the distribution of tax and fee revenues between
43 the Highway Fund and Highway Trust Fund and an analysis to determine if maintenance,
44 construction, operations, administration, and capital expenditures are properly budgeted within
45 the two funds and existing revenues are most effectively distributed between the two funds.

46 **SECTION 34.19.(uu)** This section shall become effective and applies as follows:

- 47 (1) Subsections (f), (h), (l), and (q) of this section become effective July 1, 2014.
 - 48 (2) Subsection (b) of this section becomes effective July 1, 2019.
 - 49 (3) Subsection (j) of this section expires June 30, 2018.
- 50
51

51 **DRIVER EDUCATION**

1 **SECTION 34.20.(a)** G.S. 115C-216(g) reads as rewritten:

2 "(g) Fee for Instruction. – The local boards of education may charge each student
3 participating in a driver education course a fee of up to ~~forty-five dollars (\$45.00)~~sixty-five
4 dollars (\$65.00) to offset the costs of providing the training and instruction."

5 **SECTION 34.20.(b)** The Division of Motor Vehicles and the Department of Public
6 Instruction shall collaborate to revise the driver knowledge test and to create a process for
7 administration of the test and certification of passage by public schools administering driver
8 education programs. The Division and the Department shall report to the Joint Legislative
9 Transportation Oversight Committee, the Joint Legislative Program Evaluation Oversight
10 Committee, the Joint Legislative Education Oversight Committee, and the Fiscal Research
11 Division no later than March 1, 2014, on their progress in meeting the requirements of this
12 subsection.

13 **SECTION 34.20.(c)** Subsection (a) of this section becomes effective July 1, 2013,
14 and applies to driver education courses beginning on or after that date.

16 **ADDITIONAL ANNUAL FEE FOR ELECTRIC AND HYBRID VEHICLES**

17 **SECTION 34.21.(a)** G.S. 20-87 is amended by adding the following new
18 subdivisions to read:

19 "(13) Additional fee for certain electric vehicles. – At the time of an initial
20 registration or registration renewal, the owner of a plug-in electric vehicle
21 that is not a low-speed vehicle and that does not rely on a nonelectric source
22 of power shall pay a fee in the amount of one hundred dollars (\$100.00) in
23 addition to any other required registration fees.

24 (14) Additional fee for certain hybrid vehicles. – At the time of an initial
25 registration, or registration renewal, the owner of a hybrid vehicle that is not
26 a low-speed vehicle shall pay a fee in the amount of fifty dollars (\$50.00) in
27 addition to any other required registration fees."

28 **SECTION 34.21.(b)** G.S. 20-4.01 reads as rewritten:

29 **"§ 20-4.01. Definitions.**

30 Unless the context requires otherwise, the following definitions apply throughout this
31 Chapter to the defined words and phrases and their cognates:

32 ...

33 (14) House Trailer. – Any trailer or semitrailer designed and equipped to provide
34 living or sleeping facilities and drawn by a motor vehicle.

35 (14a) Hybrid Vehicle. – A vehicle that derives its transportation energy from
36 electricity and from either a motor fuel (as defined in G.S. 105-449.60) or an
37 alternative fuel (as defined in G.S. 105-449.130).

38 (14a)(14b) Impairing Substance. – Alcohol, controlled substance under Chapter 90
39 of the General Statutes, any other drug or psychoactive substance capable of
40 impairing a person's physical or mental faculties, or any combination of
41 these substances.

42 "

43 **SECTION 34.21.(c)** Conforming Change. – G.S. 95-111.11 reads as rewritten:

44 **"§ 95-111.11. Operators.**

45 ...

46 (b) No person shall operate any amusement device equipment while under the influence
47 of alcohol or any other impairing substance as defined by ~~G.S. 20-4.01(14a)~~G.S. 20-4.01(14b)
48 It shall be a violation of this subsection to knowingly permit the operation of any amusement
49 device while the operator is under the influence of an impairing substance."

50 **SECTION 34.21.(d)** This section becomes effective January 1, 2014, and applies
51 to initial or renewal motor vehicle registrations on or after that date.

VISITOR CENTERS FUNDING

SECTION 34.22.(a) G.S. 20-79.7(c)(2) reads as rewritten:

"(c) Use of Funds in Special Registration Plate Account. –

...
 (2) From the funds remaining in the Special Registration Plate Account after the deductions in accordance with subdivision (1) of this subsection, there is annually appropriated from the Special Registration Plate Account the sum of ~~one million three hundred thousand dollars (\$1,300,000)~~ one million four hundred thousand dollars (\$1,400,000) to provide operating assistance for the Visitor Centers:

- a. on U.S. Highway 17 in Camden County, (\$100,000);
- b. on U.S. Highway 17 in Brunswick County, (\$100,000);
- c. on U.S. Highway 441 in Macon County, (\$100,000);
- d. in the Town of Boone, Watauga County, (\$100,000);
- e. on U.S. Highway 29 in Caswell County, (\$100,000);
- f. on U.S. Highway 70 in Carteret County, (\$100,000);
- g. on U.S. Highway 64 in Tyrrell County, (\$100,000);
- h. at the intersection of U.S. Highway 701 and N.C. 904 in Columbus County, (\$100,000);
- i. on U.S. Highway 221 in McDowell County, (\$100,000);
- j. on Staton Road in Transylvania County, (\$100,000);
- k. in the Town of Fair Bluff, Columbus County, near the intersection of U.S. Highway 76 and N.C. 904, (\$100,000);
- l. on U.S. Highway 421 in Wilkes County, (\$100,000); and
- m. at the intersection of Interstate 73 and Interstate 74 in Randolph County, ~~(\$100,000)-(\$100,000) each, for two centers."~~

SECTION 34.22.(b) Notwithstanding G.S. 20-79.7(c)(3), the remaining revenue in the Special Registration Plate Account appropriated to the Department of Transportation during the 2013-2015 fiscal biennium to be used for beautification of highways shall not be reduced below the amounts appropriated in the 2012-2013 fiscal year.

PART XXXV. SALARIES AND BENEFITS

GOVERNOR AND COUNCIL OF STATE

SECTION 35.1.(a) Effective for the 2013-2015 fiscal biennium, the annual salary of the Governor set by G.S. 147-11(a) shall remain unchanged at the amount of one hundred forty-one thousand two hundred sixty-five dollars (\$141,265).

SECTION 35.1.(b) Effective for the 2013-2015 fiscal biennium, the annual salaries for members of the Council of State, payable monthly, shall remain unchanged as follows:

<u>Council of State</u>	<u>Annual Salary</u>
Lieutenant Governor	\$124,676
Attorney General	124,676
Secretary of State	124,676
State Treasurer	124,676
State Auditor	124,676
Superintendent of Public Instruction	124,676
Agriculture Commissioner	124,676
Insurance Commissioner	124,676
Labor Commissioner	124,676

CERTAIN EXECUTIVE BRANCH OFFICIALS

SECTION 35.2. Effective for the 2013-2015 fiscal biennium, the annual salaries, payable monthly, for the following executive branch officials shall remain unchanged as follows:

<u>Executive Branch Officials</u>	<u>Annual Salary</u>
Chairman, Alcoholic Beverage Control Commission	\$110,868
State Controller	155,159
Commissioner of Banks	124,676
Chair, Board of Review, Division of Employment Security	122,255
Members, Board of Review, Division of Employment Security	120,737
Chairman, Parole Commission	101,235
Members of the Parole Commission	93,464
Chairman, Utilities Commission	138,849
Members of the Utilities Commission	124,676
Executive Director, North Carolina Agricultural Finance Authority	107,915

JUDICIAL BRANCH

SECTION 35.3.(a) Effective for the 2013-2015 fiscal biennium, the annual salaries, payable monthly, for specified judicial branch officials shall remain unchanged as follows:

<u>Judicial Branch Officials</u>	<u>Annual Salary</u>
Chief Justice, Supreme Court	\$142,623
Associate Justice, Supreme Court	138,896
Chief Judge, Court of Appeals	136,682
Judge, Court of Appeals	133,109
Judge, Senior Regular Resident Superior Court	129,492
Judge, Superior Court	125,875
Chief Judge, District Court	114,301
Judge, District Court	110,684
District Attorney	120,737
Administrative Officer of the Courts	128,259
Assistant Administrative Officer of the Courts	117,152
Public Defender	120,737
Director of Indigent Defense Services	124,498

SECTION 35.3.(b) Effective for the 2013-2015 fiscal biennium, the annual salaries of employees of the Judicial Department shall remain unchanged as follows:

- (1) The annual salaries of permanent full-time and part-time employees of the Judicial Department whose salaries are not itemized in this act shall remain unchanged.
- (2) Notwithstanding anything to the contrary, the annual salaries of clerks of superior court under G.S. 7A-101(a) shall not change when a county changes from one population group to another.
- (3) The annual salaries of assistant and deputy clerks of court set under G.S. 7A-102(c1) shall remain unchanged.
- (4) The annual salaries of magistrates set under G.S. 7A-171.1(a) or G.S. 7A-171.1(a1)(1) shall remain unchanged.

LEGISLATIVE BRANCH

1 **SECTION 35.4.** For the 2013-2015 fiscal biennium, the salaries of members and
 2 officers of the General Assembly shall remain unchanged at the amounts set under G.S. 120-3,
 3 as provided in 1994 by the 1993 General Assembly. Effective for the 2013-2015 fiscal
 4 biennium, salaries in the legislative branch shall remain unchanged, as follows:

- 5 (1) The annual salaries set by G.S. 120-37(c) for the principal clerks in each
 6 house shall remain unchanged.
- 7 (2) The annual salaries set by G.S. 120-37(b) of the sergeant-at-arms and the
 8 reading clerk in each house shall remain unchanged.
- 9 (3) The annual salaries of the Legislative Services Officer and of nonelected
 10 employees of the General Assembly set under G.S. 120-32 shall remain
 11 unchanged.

12
 13 **COMMUNITY COLLEGES PERSONNEL**

14 **SECTION 35.5.(a)** The annual salaries of all community college nonfaculty and
 15 professional staff whose salaries are supported from the State's General Fund shall remain
 16 unchanged for the 2013-2015 fiscal biennium.

17 **SECTION 35.5.(b)** For the 2013-2015 fiscal biennium, the annual salaries of all
 18 community college faculty whose salaries are supported from the State's General Fund shall
 19 remain unchanged. The minimum salaries for nine-month, full-time curriculum community
 20 college faculty shall also remain unchanged as follows:

<u>Education Level</u>	<u>Minimum Salary</u>
Vocational Diploma/Certificate or Less	\$34,314
Associate Degree or Equivalent	34,819
Bachelor's Degree	37,009
Masters Degree or Education Specialist	38,952
Doctoral Degree	41,753

27 No full-time faculty member shall earn less than the minimum salary for his or her education
 28 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
 32 **UNIVERSITY OF NORTH CAROLINA SYSTEM**

33 **SECTION 35.6.(a)** The annual compensation of all University of North Carolina
 34 EPA faculty, EPA nonfaculty, SPA employees, and teachers employed by the North Carolina
 35 School of Science and Mathematics shall remain unchanged for the 2013-2015 fiscal biennium.

36 **SECTION 35.6.(b)** The annual compensation of all employees of the University of
 37 North Carolina Health Care System and the Medical Faculty Practice Plan at East Carolina
 38 University shall remain unchanged for the 2013-2015 fiscal biennium.

39
 40 **MOST STATE EMPLOYEES**

41 **SECTION 35.7.** For the 2013-2015 fiscal biennium, the salaries in effect June 30,
 42 2013, for the following employees shall remain unchanged, effective July 1, 2013:

- 43 (1) Permanent full-time State officials and persons whose salaries are set in
 44 accordance with the State Personnel Act.
- 45 (2) Permanent full-time State officials and persons in positions exempt from the
 46 State Personnel Act.
- 47 (3) Permanent part-time State employees.
- 48 (4) Temporary and permanent hourly State employees.

49
 50 **SALARY ADJUSTMENTS FOR SPECIAL CIRCUMSTANCES ONLY/NO**
 51 **AUTOMATIC INCREASES**

1 **SECTION 35.8.(a)** The annual compensation of all employees subject to or
2 exempt from the State Personnel Act, including employees of local boards of education,
3 community colleges, and The University of North Carolina, for the 2013-2015 fiscal biennium
4 shall remain unchanged from that authorized on June 30, 2013, or the last date in pay status
5 during the 2011- 2013 fiscal biennium, if earlier, except that an increase may be allowed during
6 the 2013-2015 fiscal biennium under the following special circumstances:

7 (1) For all State employees regardless of funding source, and for employees of
8 the North Carolina Community College System and local school boards who
9 are paid from State funds, salaries may be increased for reallocations or
10 promotions, in-range adjustments for job change, career progression
11 adjustments for demonstrated competencies, or any other adjustment related
12 to an increase in job duties or responsibilities, none of which are subject to
13 the salary freeze otherwise provided by this Part. All other salary increases
14 are prohibited.

15 (1a) For employees of the North Carolina Community College System,
16 notwithstanding subdivision (1) of this subsection, salaries may be increased
17 if the increase is funded from local funding sources.

18 (2) For The University of North Carolina, (i) faculty using funds from the
19 Faculty Recruiting and Retention Fund, the Distinguished Professors
20 Endowment Fund, or the University Cancer Research Fund in the case of
21 faculty involved in cancer research supported by that fund and (ii) faculty,
22 nonfaculty, and other employee adjustments, including retention
23 adjustments, funded from non-State funding sources.

24 (3) For employees of the judicial branch, for local supplementation as
25 authorized by G.S. 7A-300.1.

26 The cumulative salary adjustment allowed under this subsection for each fiscal year during the
27 2013-2015 fiscal biennium may exceed ten percent (10%) of annual salary only if the
28 adjustment is approved in advance by the Office of State Budget and Management, The
29 University of North Carolina Board of Governors, the Board of the North Carolina Community
30 College System, the Legislative Services Commission, the local board of education, or other
31 authorized body as appropriate.

32 **SECTION 35.8.(b)** The automatic salary step increases for assistant and deputy
33 clerks of superior court and magistrates are suspended for the 2013-2015 fiscal biennium.

34 **SECTION 35.8.(c)** The salary increase provisions of G.S. 20-187.3 are suspended
35 for the 2013-2015 fiscal biennium.

36 **SECTION 35.8.(d)** During the 2013-2015 fiscal biennium, notwithstanding
37 G.S. 53C-2-3(c), employees of the Office of the Commissioner of Banks shall not be awarded
38 (i) compensation increases unless allowed under subdivision (1) of subsection (a) of this
39 section or (ii) compensation bonuses.

40 **SECTION 35.8.(e)** Employees of the Lottery Commission shall not receive
41 compensation bonuses during the 2013-2015 fiscal biennium.

42 43 **MONITOR MOST SALARY INCREASES**

44 **SECTION 35.9.(a)** The Office of State Budget and Management and the Office of
45 State Personnel shall monitor jointly the compliance of the following units of government with
46 the provisions of Section 35.8 of this act and shall submit quarterly reports of their monitoring
47 activities to the President Pro Tempore of the Senate, the Speaker of the House of
48 Representatives, and the Fiscal Research Division: (i) State agencies, departments, and
49 institutions, including authorities, boards, and commissions; (ii) the judicial branch; and (iii)
50 The University of North Carolina and its constituent institutions.

1 The quarterly reports required by this section shall include the following
2 information:

- 3 (1) For agencies reporting through the BEACON HR/Payroll system, (i) a
4 breakdown by action type (including, but not limited to, promotion,
5 reallocation, career progression, salary adjustment, and any similar actions
6 increasing employee pay) of the number and annual amount of those
7 increases and (ii) a breakdown by action reason (including in-range higher
8 level, acting pay, trainee adjustment, and other similar action reasons) of the
9 number and annual amount of those action types coded as salary adjustment.
- 10 (2) For The University of North Carolina and its constituent institutions, a
11 breakdown of the number and annual amount of those increases categorized
12 by the University as promotions, changes in job duties or responsibilities,
13 Distinguished Professorships, retention pay, career progression, and any
14 other similar actions increasing employee pay.
- 15 (3) A summary of actions taken by the Office of State Budget and Management
16 and the Office of State Personnel with respect to unauthorized salary
17 increases.

18 **SECTION 35.9.(b)** The Legislative Services Officer shall report quarterly to the
19 President Pro Tempore of the Senate and the Speaker of the House of Representatives on
20 compliance with Section 35.8 this act.

21 ESTABLISH SEVERANCE EXPENDITURE RESERVE

22 **SECTION 35.10.(a)** There are established in the Office of State Budget and
23 Management General Fund and Highway Fund reserve budget codes for the purpose of funding
24 severance-related obligations to State employees subject to the State Personnel Act, and
25 employees exempt from the State Personnel Act, who are separated from service due to a
26 reduction-in-force action. Severance-related expenditures from these reserves shall include
27 obligations to fund:

- 28 (1) A State employee's severance salary continuation with an age adjustment
29 factor as authorized by G.S. 126-8.5, including employer-related
30 contributions for social security, and
31 (2) Noncontributory health premiums for up to 12 months as authorized by
32 G.S. 135-48.40(b)(8) for employees of employing units as defined by
33 G.S. 135-48.1(11).

34 **SECTION 35.10.(b)** The Director of the Budget shall allocate funds appropriated
35 in Sections 2.1 and 3.1 of this act to the Severance Expenditure Reserve to public agencies to
36 fund severance-related obligations incurred by the agencies as a result of reduction-in-force
37 actions that cause State-supported public employees to be terminated from public employment.
38 Funds appropriated to the Severance Expenditure Reserve shall be expended in their entirety
39 before funds appropriated to a public agency for State-supported personal services expenditures
40 may be used to fund any severance-related obligations.

41 Funds appropriated to the Severance Expenditure Reserve may be allocated to
42 public agencies for positions that are funded by the General Fund or Highway Fund. Funds
43 appropriated to the Severance Expenditure Reserve may also be allocated to public agencies for
44 positions that are funded partially from the General Fund or Highway Fund and partially from
45 sources other than the General Fund or Highway Fund but only to the extent of the
46 proportionate part of the salaries paid from the General Fund or Highway Fund.

47 For the purposes of this subsection, the term "public employee" means an employee
48 of a State agency, department, or institution; The University of North Carolina; the North
49 Carolina Community College System; or a local school administrative unit.

TEACHER SALARY SCHEDULES

SECTION 35.11.(a) The following monthly salary schedules shall apply for the 2013-2014 fiscal year to certified personnel of the public schools who are classified as teachers. The schedules contain 37 steps, with each step corresponding to one year of teaching experience. Public school employees paid according to this salary schedule and receiving NBPTS certification or obtaining a masters degree shall not be prohibited from receiving the appropriate increase in salary. Provided, however, teachers employed during the 2012-2013 school year who did not work the required number of months to acquire an additional year of experience shall not receive a decrease in salary as otherwise would be required by the salary schedule below.

2013-2014 Monthly Salary Schedule

"A" Teachers

Years of Experience	"A" Teachers	NBPTS Certification
0-2	\$3,080	N/A
3-5	\$3,080	\$3,450
6	\$3,122	\$3,497
7	\$3,167	\$3,547
8	\$3,303	\$3,699
9	\$3,445	\$3,858
10	\$3,580	\$4,010
11	\$3,711	\$4,156
12	\$3,816	\$4,274
13	\$3,865	\$4,329
14	\$3,914	\$4,384
15	\$3,965	\$4,441
16	\$4,015	\$4,497
17	\$4,066	\$4,554
18	\$4,118	\$4,612
19	\$4,171	\$4,672
20	\$4,226	\$4,733
21	\$4,282	\$4,796
22	\$4,337	\$4,857
23	\$4,397	\$4,925
24	\$4,456	\$4,991
25	\$4,515	\$5,057
26	\$4,577	\$5,126
27	\$4,639	\$5,196
28	\$4,706	\$5,271
29	\$4,771	\$5,344
30	\$4,836	\$5,416
31	\$4,903	\$5,491
32	\$4,972	\$5,569
33	\$5,044	\$5,649
34	\$5,116	\$5,730
35	\$5,215	\$5,841
36+	\$5,318	\$5,956

2013-2014 Monthly Salary Schedule

"M" Teachers

Years of Experience	"M" Teachers	NBPTS Certification
---------------------	--------------	---------------------

1	0-2	\$3,388	N/A
2	3-5	\$3,388	\$3,795
3	6	\$3,434	\$3,846
4	7	\$3,484	\$3,902
5	8	\$3,633	\$4,069
6	9	\$3,790	\$4,245
7	10	\$3,938	\$4,411
8	11	\$4,082	\$4,572
9	12	\$4,198	\$4,702
10	13	\$4,252	\$4,762
11	14	\$4,305	\$4,822
12	15	\$4,362	\$4,885
13	16	\$4,417	\$4,947
14	17	\$4,473	\$5,010
15	18	\$4,530	\$5,074
16	19	\$4,588	\$5,139
17	20	\$4,649	\$5,207
18	21	\$4,710	\$5,275
19	22	\$4,771	\$5,344
20	23	\$4,837	\$5,417
21	24	\$4,902	\$5,490
22	25	\$4,967	\$5,563
23	26	\$5,035	\$5,639
24	27	\$5,103	\$5,715
25	28	\$5,177	\$5,798
26	29	\$5,248	\$5,878
27	30	\$5,320	\$5,958
28	31	\$5,393	\$6,040
29	32	\$5,469	\$6,125
30	33	\$5,548	\$6,214
31	34	\$5,628	\$6,303
32	35	\$5,737	\$6,425
33	36+	\$5,850	\$6,552

SECTION 35.11.(b) Annual longevity payments for teachers shall be at the rate of one and one-half percent (1.5%) of base salary for 10 to 14 years of State service, two and twenty-five hundredths percent (2.25%) of base salary for 15 to 19 years of State service, three and twenty-five hundredths percent (3.25%) of base salary for 20 to 24 years of State service, and four and one-half percent (4.5%) of base salary for 25 or more years of State service. The longevity payment shall be paid in a lump sum once a year.

SECTION 35.11.(c) Certified public schoolteachers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "M" teachers. Certified public schoolteachers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "M" teachers.

SECTION 35.11.(d) The first step of the salary schedule for school psychologists shall be equivalent to Step 10, corresponding to 10 years of experience, on the salary schedule established in this section for certified personnel of the public schools who are classified as "M" teachers. Certified psychologists shall be placed on the salary schedule at an appropriate

step based on their years of experience. Certified psychologists shall receive longevity payments based on years of State service in the same manner as teachers.

Certified psychologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided for certified psychologists. Certified psychologists with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to the compensation provided for certified psychologists.

SECTION 35.11.(e) Speech pathologists who are certified as speech pathologists at the masters degree level and audiologists who are certified as audiologists at the masters degree level and who are employed in the public schools as speech and language specialists and audiologists shall be paid on the school psychologist salary schedule.

Speech pathologists and audiologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided for speech pathologists and audiologists. Speech pathologists and audiologists with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to the compensation provided for speech pathologists and audiologists.

SECTION 35.11.(f) Certified school nurses who are employed in the public schools as nurses shall be paid on the "M" salary schedule.

SECTION 35.11.(g) As used in this section, the term "teacher" shall also include instructional support personnel.

SECTION 35.11.(h) Public school employees and State agency employees paid on the teacher salary schedule shall not move up on salary schedules or receive automatic step increases, or other increments during the 2014-2015 Fiscal Year unless authorized by the General Assembly.

SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE

SECTION 35.12.(a) The following base salary schedule for school-based administrators shall apply only to principals and assistant principals. This base salary schedule shall apply for the 2013-2014 fiscal year, commencing July 1, 2013. Provided, however, school-based administrators (i) employed during the 2012-2013 school year who did not work the required number of months to acquire an additional year of experience and (ii) employed during the 2013-2014 school year in the same classification shall not receive a decrease in salary as otherwise would be required by the salary schedule below.

2013-2014 Principal and Assistant Principal Salary Schedules
Classification

Years of Exp	Assistant Principal	Prin I (0-10)	Prin II (11-21)	Prin III (22-32)	Prin IV (33-43)
0-9	\$3,828	-	-	-	-
10	\$3,977	-	-	-	-
11	\$4,123	-	-	-	-
12	\$4,240	-	-	-	-
13	\$4,295	\$4,295	-	-	-
14	\$4,348	\$4,348	-	-	-
15	\$4,406	\$4,406	\$4,461	-	-
16	\$4,461	\$4,461	\$4,518	-	-
17	\$4,518	\$4,518	\$4,575	\$4,634	-
18	\$4,575	\$4,575	\$4,634	\$4,695	\$4,757

1	19	\$4,634	\$4,634	\$4,695	\$4,757	\$4,819
2	20	\$4,695	\$4,695	\$4,757	\$4,819	\$4,885
3	21	\$4,757	\$4,757	\$4,819	\$4,885	\$4,951
4	22	\$4,819	\$4,819	\$4,885	\$4,951	\$5,017
5	23	\$4,885	\$4,885	\$4,951	\$5,017	\$5,085
6	24	\$4,951	\$4,951	\$5,017	\$5,085	\$5,154
7	25	\$5,017	\$5,017	\$5,085	\$5,154	\$5,229
8	26	\$5,085	\$5,085	\$5,154	\$5,229	\$5,300
9	27	\$5,154	\$5,154	\$5,229	\$5,300	\$5,373
10	28	\$5,229	\$5,229	\$5,300	\$5,373	\$5,447
11	29	\$5,300	\$5,300	\$5,373	\$5,447	\$5,524
12	30	\$5,373	\$5,373	\$5,447	\$5,524	\$5,603
13	31	\$5,447	\$5,447	\$5,524	\$5,603	\$5,684
14	32	\$5,524	\$5,524	\$5,603	\$5,684	\$5,794
15	33	\$5,603	\$5,603	\$5,684	\$5,794	\$5,909
16	34	\$5,684	\$5,684	\$5,794	\$5,909	\$6,027
17	35	\$5,794	\$5,794	\$5,909	\$6,027	\$6,148
18	36	\$5,909	\$5,909	\$6,027	\$6,148	\$6,271
19	37	-	\$6,027	\$6,148	\$6,271	\$6,396
20	38	-	-	\$6,271	\$6,396	\$6,524
21	39	-	-	\$6,396	\$6,524	\$6,654
22	40	-	-	-	\$6,654	\$6,787
23	41	-	-	-	\$6,787	\$6,923
24	42	-	-	-	-	\$7,061

2013-2014 Principal and Assistant Principal Salary Schedules
Classification

Years of Exp	Prin V (44-54)	Prin VI (55-65)	Prin VII (66-100)	Prin VIII (101+)
0-19	\$4,885	-	-	-
20	\$4,951	-	-	-
21	\$5,017	\$5,085	-	-
22	\$5,085	\$5,154	\$5,300	-
23	\$5,154	\$5,229	\$5,373	\$5,447
24	\$5,229	\$5,300	\$5,447	\$5,524
25	\$5,300	\$5,373	\$5,524	\$5,603
26	\$5,373	\$5,447	\$5,603	\$5,684
27	\$5,447	\$5,524	\$5,684	\$5,794
28	\$5,524	\$5,603	\$5,794	\$5,909
29	\$5,603	\$5,684	\$5,909	\$6,027
30	\$5,684	\$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

1	41	\$7,061	\$7,202	\$7,493	\$7,643
2	42	\$7,202	\$7,346	\$7,643	\$7,796
3	43	\$7,346	\$7,493	\$7,796	\$7,952
4	44	-	\$7,643	\$7,952	\$8,111
5	45	-	\$7,796	\$8,111	\$8,273
6	46+	-	-	\$8,273	\$8,438

SECTION 35.12.(b) The appropriate classification for placement of principals and assistant principals on the salary schedule, except for principals in alternative schools and in cooperative innovative high schools, shall be determined in accordance with the following schedule:

Classification	Number of Teachers Supervised
Assistant Principal	
Principal I	Fewer than 11 Teachers
Principal II	11-21 Teachers
Principal III	22-32 Teachers
Principal IV	33-43 Teachers
Principal V	44-54 Teachers
Principal VI	55-65 Teachers
Principal VII	66-100 Teachers
Principal VIII	More than 100 Teachers

The number of teachers supervised includes teachers and assistant principals paid from State funds only; it does not include teachers or assistant principals paid from non-State funds or the principal or teacher assistants.

The beginning classification for principals in alternative schools and in cooperative innovative high school programs shall be the Principal III level. Principals in alternative schools who supervise 33 or more teachers shall be classified according to the number of teachers supervised.

SECTION 35.12.(c) A principal shall be placed on the step on the salary schedule that reflects total number of years of experience as a certificated employee of the public schools and an additional step for every three years of experience as a principal. Provided, however, a principal who acquires an additional step for the 2013-2014 or 2014-2015 fiscal years shall not receive a corresponding increase in salary during the 2013-2015 fiscal biennium. A principal or assistant principal shall also continue to receive any additional State-funded percentage increases earned for the 1997-1998, 1998-1999, and 1999-2000 school years for improvement in student performance or maintaining a safe and orderly school.

SECTION 35.12.(d) Principals and assistant principals with certification based on academic preparation at the six-year degree level shall be paid a salary supplement of one hundred twenty-six dollars (\$126.00) per month and at the doctoral degree level shall be paid a salary supplement of two hundred fifty-three dollars (\$253.00) per month.

SECTION 35.12.(e) Longevity pay for principals and assistant principals shall be as provided for State employees under the State Personnel Act.

SECTION 35.12.(f) If a principal is reassigned to a higher job classification because the principal is transferred to a school within a local school administrative unit with a larger number of State-allotted teachers, the principal shall be placed on the salary schedule as if the principal had served the principal's entire career as a principal at the higher job classification.

If a principal is reassigned to a lower job classification because the principal is transferred to a school within a local school administrative unit with a smaller number of

1 State-allotted teachers, the principal shall be placed on the salary schedule as if the principal
2 had served the principal's entire career as a principal at the lower job classification.

3 This subsection applies to all transfers on or after the effective date of this section,
4 except transfers in school systems that have been created, or will be created, by merging two or
5 more school systems. Transfers in these merged systems are exempt from the provisions of this
6 subsection for one calendar year following the date of the merger.

7 **SECTION 35.12.(g)** Participants in an approved full-time masters in-school
8 administration program shall receive up to a 10-month stipend at the beginning salary of an
9 assistant principal during the internship period of the masters program. The stipend shall not
10 exceed the difference between the beginning salary of an assistant principal plus the cost of
11 tuition, fees, and books and any fellowship funds received by the intern as a full-time student,
12 including awards of the Principal Fellows Program. The Principal Fellows Program or the
13 school of education where the intern participates in a full-time masters in-school administration
14 program shall supply the Department of Public Instruction with certification of eligible
15 full-time interns.

16 **SECTION 35.12.(h)** During the 2013-2015 fiscal biennium, the placement on the
17 salary schedule of an administrator with a one-year provisional assistant principal's certificate
18 shall be at the entry-level salary for an assistant principal or the appropriate step on the teacher
19 salary schedule, whichever is higher.

20 **SECTION 35.12.(i)** Public school employees and State agency employees paid on
21 the school based administrator salary schedule shall not move up on salary schedules or receive
22 automatic step increases, or other increments during the 2014-2015 Fiscal Year unless
23 authorized by the General Assembly.

24 25 **CENTRAL OFFICE SALARIES**

26 **SECTION 35.13.(a)** The monthly salary ranges that follow, which apply to
27 assistant superintendents, associate superintendents, directors/coordinators, supervisors, and
28 finance officers, shall remain unchanged for the 2013-2015 fiscal biennium, beginning July 1,
29 2013.

30	School Administrator I	\$3,349	\$6,281
31	School Administrator II	\$3,550	\$6,662
32	School Administrator III	\$3,769	\$7,068
33	School Administrator IV	\$3,920	\$7,349
34	School Administrator V	\$4,078	\$7,647
35	School Administrator VI	\$4,326	\$8,109
36	School Administrator VII	\$4,500	\$8,436

37 The local board of education shall determine the appropriate category and
38 placement for each assistant superintendent, associate superintendent, director/coordinator,
39 supervisor, or finance officer within the salary ranges and within funds appropriated by the
40 General Assembly for central office administrators and superintendents. The category in which
41 an employee is placed shall be included in the contract of any employee.

42 **SECTION 35.13.(b)** The monthly salary ranges that follow, which apply to public
43 school superintendents, shall remain unchanged for the 2013-2015 fiscal biennium, beginning
44 July 1, 2013.

45	Superintendent I	\$4,777	\$8,949
46	Superintendent II	\$5,071	\$9,490
47	Superintendent III	\$5,380	\$10,067
48	Superintendent IV	\$5,710	\$10,679
49	Superintendent V	\$6,060	\$11,330

50 The local board of education shall determine the appropriate category and
51 placement for the superintendent based on the average daily membership of the local school

1 administrative unit and within funds appropriated by the General Assembly for central office
2 administrators and superintendents.

3 **SECTION 35.13.(c)** Longevity pay for superintendents, assistant superintendents,
4 associate superintendents, directors/coordinators, supervisors, and finance officers shall be as
5 provided for State employees under the State Personnel Act.

6 **SECTION 35.13.(d)** Superintendents, assistant superintendents, associate
7 superintendents, directors/coordinators, supervisors, and finance officers with certification
8 based on academic preparation at the six-year degree level shall receive a salary supplement of
9 one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided
10 pursuant to this section. Superintendents, assistant superintendents, associate superintendents,
11 directors/coordinators, supervisors, and finance officers with certification based on academic
12 preparation at the doctoral degree level shall receive a salary supplement of two hundred
13 fifty-three dollars (\$253.00) per month in addition to the compensation provided for under this
14 section.

15 **SECTION 35.13.(e)** The State Board of Education shall not permit local school
16 administrative units to transfer State funds from other funding categories for salaries for public
17 school central office administrators.

18 **SECTION 35.13.(f)** The salaries of all permanent, full-time personnel paid from
19 the Central Office Allotment shall remain unchanged for the 2013-2015 fiscal biennium.
20

21 **NONCERTIFIED PERSONNEL SALARIES**

22 **SECTION 35.14.** The annual salary for permanent, full-time and part-time
23 noncertified public school employees whose salaries are supported from the State's General
24 Fund shall be remain unchanged for the 2013-2015 fiscal biennium.
25

26 **SALARY-RELATED CONTRIBUTIONS**

27 **SECTION 35.15.(a)** Effective for the 2013-2015 fiscal biennium, required
28 employer salary-related contributions for employees whose salaries are paid from department,
29 office, institution, or agency receipts shall be paid from the same source as the source of the
30 employee's salary. If an employee's salary is paid in part from the General Fund or Highway
31 Fund and in part from department, office, institution, or agency receipts, required employer
32 salary-related contributions may be paid from the General Fund or Highway Fund only to the
33 extent of the proportionate part paid from the General Fund or Highway Fund in support of the
34 salary of the employee, and the remainder of the employer's requirements shall be paid from the
35 source that supplies the remainder of the employee's salary. The requirements of this section as
36 to source of payment are also applicable to payments on behalf of the employee for hospital
37 medical benefits, longevity pay, unemployment compensation, accumulated leave, workers'
38 compensation, severance pay, separation allowances, and applicable disability income benefits.

39 Notwithstanding any other provision of law, an employing unit, as defined in
40 G.S. 135-48.1, that hires or has hired as an employee a retiree that is in receipt of monthly
41 retirement benefits from any retirement system supported in whole or in part by contributions
42 of the State shall enroll the retiree in the active group and pay the cost for the hospital medical
43 benefits if that retiree is employed in a position that would require the employer to pay hospital
44 medical benefits if the individual had not been retired.

45 **SECTION 35.15.(b)** Effective July 1, 2013, the State's employer contribution rates
46 budgeted for retirement and related benefits as a percentage of covered salaries for the
47 2013-2015 fiscal biennium are (i) fourteen and sixty-eight hundredths percent (14.68%) –
48 Teachers and State Employees; (ii) nineteen and sixty-eight hundredths percent (19.68%) –
49 Law Enforcement Officers; (iii) fourteen and twenty-eight hundredths percent (14.28%) – Law
50 Enforcement Officers with the Department of Public Safety; (iv) twelve and sixty-seven
51 hundredths percent (12.67%) – University Employees' Optional Retirement System; (v) twelve

1 and sixty-seven hundredths percent (12.67%) – Community College Optional Retirement
2 Program; (vi) thirty-three and forty-one hundredths percent (33.41%) – Consolidated Judicial
3 Retirement System; and (vii) five and forty hundredths percent (5.40%) – Legislative
4 Retirement System. Each of the foregoing contribution rates includes five and forty hundredths
5 percent (5.40%) for hospital and medical benefits except for the law enforcement officers with
6 the Department of Public Safety. The rate for Teachers and State Employees, State Law
7 Enforcement Officers, Law Enforcement Officers with the Department of Public Safety,
8 Community College Optional Retirement Program, and the University Employees' Optional
9 Retirement Program includes forty-three hundredths percent (0.43%) for the Disability Income
10 Plan. The rates for Teachers and State Employees, State Law Enforcement Officers, and Law
11 Enforcement Officers with the Department of Public Safety include sixteen hundredths percent
12 (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers and Law
13 Enforcement Officers with the Department of Public Safety includes five percent (5%) for
14 Supplemental Retirement Income.

15 **SECTION 35.15.(c)** Effective July 1, 2013, the maximum annual employer
16 contributions, payable monthly, by the State for each covered employee or retiree for the
17 2013-2014 fiscal year to the State Health Plan for Teachers and State Employees are (i)
18 Medicare eligible employees and retirees – four thousand one hundred eight dollars (\$4,108)
19 and (ii) non-Medicare eligible employees and retirees – five thousand two hundred eighty-five
20 dollars (\$5,285).

21 **SECTION 35.15.(d)** Effective July 1, 2014, the maximum annual employer
22 contributions, payable monthly, by the State for each covered employee or retiree for the
23 2014-2015 fiscal year to the State Health Plan for Teachers and State Employees are (i)
24 Medicare eligible employees and retirees – four thousand one hundred ninety-eight dollars
25 (\$4,198) and (ii) non-Medicare eligible employees and retirees – five thousand four hundred
26 two dollars (\$5,402).

27 **AMEND SALARY CONTINUATION LAWS FOR LAW ENFORCEMENT OFFICERS**

28 **SECTION 35.16.(a)** Article 12B of Chapter 143 of the General Statutes reads as
29 rewritten:
30

31 "Article 12B.

32 "Salary Continuation Plan for Certain State Law-Enforcement Officers.

33 **"§ 143-166.13. Persons entitled to benefits under Article.**

34 (a) The following persons who are subject to the Criminal Justice Training and
35 Standards Act are entitled to benefits under this Article:

- 36 (1) State Government Security Officers, Department of Administration;
- 37 (2) State Correctional Officers, Division of Adult Correction of the Department
38 of Public Safety;
- 39 (3) State Probation and Parole Officers, Division of Adult Correction of the
40 Department of Public Safety;
- 41 (4) Sworn State Law-Enforcement Officers with the power of arrest, Division of
42 Adult Correction of the Department of Public Safety;
- 43 (5) Alcohol Law-Enforcement Agents, Department of Public Safety;
- 44 (6) State Highway Patrol Officers, Department of Public Safety;
- 45 (7) General Assembly Special Police, General Assembly;
- 46 (8) Sworn State Law-Enforcement Officers with the power of arrest,
47 Department of Health and Human Services;
- 48 (9) Juvenile Justice Officers, Division of Juvenile Justice of the Department of
49 Public Safety;
- 50 (10) Insurance Investigators, Department of Insurance;
- 51 (11) State Bureau of Investigation Officers and Agents, Department of Justice;

- 1 (12) Director and Assistant Director, License and Theft Enforcement Section,
 2 Division of Motor Vehicles, Department of Transportation;
 3 (13) Members of License and Theft Enforcement Section, Division of Motor
 4 Vehicles, Department of Transportation, designated by the Commissioner of
 5 Motor Vehicles as either "inspectors" or uniformed weigh station personnel;
 6 (14) Utilities Commission Transportation Inspectors and Special Investigators;
 7 (15) North Carolina Ports Authority Police, Department of Transportation;
 8 (16) Sworn State Law-Enforcement Officers with the power of arrest,
 9 Department of Environment and Natural Resources;
 10 (17) Sworn State Law-Enforcement Officers with the power of arrest,
 11 Department of Public Safety.
 12 (18) Sworn State Law-Enforcement Officers with the power of arrest,
 13 Department of Revenue.
 14 (19) Sworn State Law-Enforcement Officers with the power of arrest, University
 15 System.

16 (b) The following persons are entitled to benefits under this Article regardless of
 17 whether they are subject to the Criminal Justice Training and Standards Act:

- 18 (1) Driver License Examiners injured by accident arising out of and in the
 19 course of giving a road test, Division of Motor Vehicles, Department of
 20 Transportation;
 21 (2) Employees of the Division of Adult Correction of the Department of Public
 22 Safety injured by a direct and deliberate act of an offender supervised by the
 23 Division or while performing supervisory duties over offenders which place
 24 the employees at risk of such injury.

25 (c) As used in this Article, the term "eligible person" or "person" shall mean any
 26 individual listed under subsection (a) or (b) of this section.

27 **"§ 143-166.14. Payment of salary notwithstanding incapacity; Workers' Compensation**
 28 **Act applicable after two years; duration of payment.**

29 The salary of any ~~of the above listed persons~~ eligible person shall be paid as long as ~~his~~ the
 30 person's employment in that position continues, notwithstanding ~~his~~ the person's total or partial
 31 incapacity to perform any duties to which ~~he~~ the person may be lawfully assigned, if that
 32 incapacity is the result of an injury ~~by accident or an occupational disease arising out of and in~~
 33 ~~the course of the performance by him of his or~~ injuries due to extreme activity which occurred
 34 in the course and scope of the eligible person's official duties, except if that incapacity
 35 continues for more than two years from its inception, the person shall, during the further
 36 continuance of that incapacity, be subject to the provisions of Chapter 97 of the General
 37 Statutes pertaining to workers' compensation. Salary paid to ~~a~~ an eligible person pursuant to
 38 this Article shall cease upon the resumption of ~~his~~ the person's regularly assigned duties,
 39 retirement, resignation, or death, whichever first occurs, except that temporary return to duty
 40 shall not prohibit payment of salary for a subsequent period of incapacity which can be shown
 41 to be directly related to the original injury.

42 **"§ 143-166.15. Application of § 97-27; how payments made.**

43 Notwithstanding the provisions of G.S. 143-166.14 of this Article, the persons entitled to
 44 benefits shall be subject to the provisions of G.S. 97-27 during the two-year period of payment
 45 of full salary. All payments of salary shall be made at the same time and in the same manner as
 46 other salaries are paid to other persons in the same department.

47 **"§ 143-166.16. Effect on workers' compensation and other benefits; application of §**
 48 **97-24.**

49 The provisions of G.S. 143-166.14 shall be in lieu of all compensation provided for the first
 50 two years of incapacity by G.S. 97-29 and 97-30, but shall be in addition to any other benefits
 51 or compensation to which such person shall be entitled under the provisions of the Workers'

1 Compensation Act. The provisions of G.S. 97-24 will commence at the end of the two-year
2 period for which salary is paid pursuant to G.S. 143-166.14.

3 **"§ 143-166.17. Period of incapacity not charged against sick leave or other leave.**

4 The period for which the salary of any person is paid pursuant to G.S. 143-166.14 while ~~he~~
5 the person is incapacitated as a result of an injury ~~by accident or an occupational disease arising~~
6 ~~out of and in the course of the performance by him of his or~~ injuries due to extreme activity
7 which occurred in the course and scope of the eligible person's official duties, shall not be
8 charged against any sick or other leave to which ~~he~~ the person shall be entitled under any other
9 provision of law.

10 **"§ 143-166.18. Report of incapacity.**

11 Any person designated in G.S. 143-166.13, who, as a result of an injury ~~by accident arising~~
12 ~~out of and in the course of the performance by him of his or~~ injuries due to extreme activity
13 which occurred in the course and scope of the eligible person's official duties, is totally or
14 partially incapacitated to perform any duties to which ~~he~~ the person may be lawfully assigned,
15 shall report the incapacity as soon as practicable in the manner required by the secretary or
16 other head of the department to which the agency is assigned by statute.

17 **"§ 143-166.19. Determination of cause and extent of incapacity; hearing before Industrial
18 Commission; appeal; effect of refusal to perform duties.**

19 Upon the filing of the report, the secretary or other head of the department or, in the case of
20 the General Assembly, the Legislative Services Officer, shall determine the cause of the
21 incapacity and to what extent the claimant may be assigned to other than ~~his~~ the claimant's
22 normal duties. The finding of the secretary or other head of the department shall determine the
23 right of the claimant to benefits under this Article. Notice of the finding shall be filed with the
24 North Carolina Industrial Commission. ~~Unless the claimant, within 30 days after he receives~~
25 ~~notice, files with the North Carolina Industrial Commission, upon the form it shall require, a~~
26 ~~request for a hearing, the finding of the secretary or other department head shall be final. The~~
27 finding of the secretary or other department head shall be final unless the claimant, within 30
28 days of receipt of the notice, files a request for a hearing with the North Carolina Industrial
29 Commission using a form required by the Commission. Upon the filing of a request, the North
30 Carolina Industrial Commission shall proceed to hear the matter in accordance with its
31 regularly established procedure for hearing claims filed under the Worker's Compensation Act,
32 and shall report its findings to the secretary or other head of the department. From the decision
33 of the North Carolina Industrial Commission, an appeal shall lie as in other matters heard and
34 determined by the Commission. Any person who refuses to perform any duties to which ~~he~~ the
35 person may be properly assigned as a result of the finding of the secretary, other head of the
36 department or of the North Carolina Industrial Commission shall be entitled to no benefits
37 pursuant to this Article as long as the refusal continues.

38 **"§ 143-166.20. Subrogation.**

39 The same rights and remedies set forth in G.S. 97-10.2 shall apply in all third party liability
40 cases occurring under this Article, including cases involving the right of the affected State
41 agency to recover the salary paid to an injured officer during ~~his~~ the officer's period of
42 disability."

43 **SECTION 35.16.(b)** This section becomes effective October 1, 2013, and applies
44 to incapacity commencing on or after that date.

45
46 **SEPARATE INSURANCE BENEFITS PLAN ASSETS/PAYMENT OF HEALTH
47 INSURANCE PREMIUMS FOR LAW ENFORCEMENT OFFICERS**

48 **SECTION 35.17.(a)** G.S. 143-166.60 is amended by adding a new subsection to
49 read:

50 "(d1) In addition to the benefits provided under subsection (d) of this section, the assets of
51 the Plan may be used to pay the employer health insurance contributions and contribution rates

1 on behalf of law enforcement officers, as defined in G.S. 135-1(11c), employed by the State
 2 and former law enforcement officers receiving a retirement allowance from the Teachers' and
 3 State Employees' Retirement System."

4 **SECTION 35.17.(b)** During the 2013-2015 fiscal biennium, the Department of
 5 Public Safety shall report monthly to the State Health Plan for Teachers and State Employees
 6 the total amount of employer premiums due on behalf of sworn law enforcement officers
 7 employed by the Department. The Plan shall reduce the total premiums the Department of
 8 Public Safety owes by this amount, and the Department of State Treasurer shall transfer the
 9 same amount from the Separate Insurance Benefit Plan established under G.S. 143-166.60 to
 10 the Plan.

11 **SECTION 35.17.(c)** For each fiscal year of the 2013-2015 fiscal biennium, the
 12 Department of State Treasurer shall calculate the total compensation for which the Department
 13 of Public Safety has paid retirement contributions on behalf of sworn law enforcement officers.
 14 The Department of State Treasurer shall multiply this total compensation by five and forty
 15 hundredths percent (5.40%) for months during the 2013-2014 fiscal year and five and fifty-one
 16 hundredths percent (5.51%) for months during the 2014-2015 fiscal year and shall transfer the
 17 resulting amount from the Separate Insurance Benefit Plan established under G.S. 143-166.60
 18 to the Retiree Health Benefit Fund established under G.S. 135-7(f).

19
 20 **PART XXXVI. CAPITAL APPROPRIATIONS**

21
 22 **GENERAL FUND CAPITAL APPROPRIATIONS/INTRODUCTION**

23 **SECTION 36.1.** The appropriations made by the 2013 General Assembly for
 24 capital improvements are for constructing, repairing, or renovating State buildings, utilities, and
 25 other capital facilities, for acquiring sites for them where necessary, and for acquiring buildings
 26 and land for State government purposes.

27
 28 **CAPITAL APPROPRIATIONS/GENERAL FUND**

29 **SECTION 36.2.(a)** There is appropriated from the General Fund for the 2013-2015
 30 fiscal biennium the following amounts for capital improvements:

31 Capital Improvements – General Fund	32 2013-2014	33 2014-2015
34 Department of Administration		
35 Sandhills State Veterans Facility – Committal		
36 Enclosure	\$ 125,000	-
37 Goldsboro State Veterans' Cemetery	600,000	-
38 Department of Agriculture and Consumer Services		
39 Agricultural Water Resources Assistance Program	500,000	-
40 Department of Environment and Natural Resources		
41 Water Resources Development Projects	6,917,000	5,000,000
42 Department of Public Safety		
43 National Guard	5,000,000	3,250,000
44 The University of North Carolina System		
45 Appalachian State University – Health Sciences		
46 Building Advance Planning	2,000,000	-
47 University of North Carolina Asheville – Land Purchases	2,000,000	-

TOTAL CAPITAL IMPROVEMENTS –

GENERAL FUND **\$ 17,142,000** **8,250,000**

SECTION 36.2.(b) Funds appropriated in subsection (a) of this section for the Agricultural Water Resources Assistance Program shall revert in accordance with Section 13.2 of this act.

SECTION 36.2.(c) Funds appropriated in subsection (a) of this section for the Sandhills State Veterans Facility – Committal Enclosure shall be used to match non-State funds. The total project cost authorized is three hundred thousand dollars (\$300,000).

SECTION 36.2.(d) Funds appropriated in subsection (a) of this section for the Goldsboro State Veterans' Cemetery shall be used to pay for environmental, architectural, and engineering costs associated with constructing a State Veterans' Cemetery in Goldsboro. The State shall establish, own, operate, maintain, expand, and improve a State Veterans' Cemetery in Goldsboro in accordance with 38 C.F.R. Part 39 unless subdivision (1) or (2) of subsection (e) of this section is true.

SECTION 36.2.(e) Any unspent and unencumbered funds appropriated in subsection (a) of this section for the Goldsboro State Veterans' Cemetery shall revert to the General Fund three years after the effective date of this act if on that date any of the following are true:

- (1) The State has not received federal grant funds in an amount that, when added to the funds appropriated in subsection (a) of this section, is sufficient to pay for the cost of completing the State Veterans' Cemetery authorized in that subsection.
- (2) Land in Wayne County sufficient in size and quality to build the State Veterans' Cemetery described in subsection (a) of this section has not been conveyed to the State by the County or some other party.
- (3) Any of the funds are not required to complete the Goldsboro State Veterans' Cemetery.

SECTION 36.2.(f) G.S. 65-41 reads as rewritten:

"§ 65-41. Land acquisition.

The State may accept land for the establishment of not more than ~~three~~four veterans cemeteries."

WATER RESOURCES DEVELOPMENT PROJECTS

SECTION 36.3.(a) The Department of Environment and Natural Resources shall allocate funds for water resources projects during the 2013-2015 biennium in accordance with the schedule that follows. The amounts set forth in the schedule include funds appropriated in this act for water resources projects and funds carried forward from previous fiscal years in accordance with subsection (b) of this section. These funds will provide a State match for an estimated twenty-one million two hundred sixty thousand dollars (\$21,260,000) in federal funds in the 2013-2014 fiscal year and will provide a State match for additional federal funds in the 2014-2015 fiscal year.

Name of Project	2013-2015
(1) B. Everett Jordan Lake Water Supply Storage A	\$ 200,000
(2) Wilmington Harbor Deepening (75/25)	2,266,000
(3) Morehead City Harbor Maintenance	-
(4) Wilmington Harbor Maintenance (Disposal Area 8 & 10)	2,000,000
(5) Wilmington Harbor Improvements Feasibility (50/50)	500,000
(6) Planning Assistance to Communities (50/50)	25,000
(7) Manteo Old House Channel Cap Sec. 204 (65/35)	1,500,000
(8) Wrightsville Beach Coastal Storm Damage	

1	Reduction Project (65/35)(Full Project)	1,077,000
2	(9) Ocean Isle Beach Coastal Storm Damage	
3	Reduction Project (65/35)(Full Project)	1,453,000
4	(10) Carolina Beach Coastal Storm Damage	
5	Reduction Project (65/35)(40% project)	215,000
6	(11) Kure Beach Coastal Storm Damage	
7	Reduction Project (65/35)(40% project)	188,000
8	(12) Surf City/NTB Coastal Storm Damage	
9	Reduction Study-PED (75/25)	37,000
10	TOTALS	\$ 9,461,000

11 **SECTION 36.3.(b)** It is the intent of the General Assembly that funds carried
 12 forward from previous fiscal years be used to supplement the eleven million nine hundred
 13 seventeen thousand dollars (\$11,917,000) appropriated for water resources development
 14 projects in Section 36.2(a) of this act. Therefore, the following funds carried forward from
 15 previous fiscal years shall be used for the following projects:

17	Name of Project	Amount Carried Forward
18	(1) Wilmington Harbor Maintenance (Disposal Area 8 & 10)	\$ 1,200,000
19	(2) Wilmington Harbor Improvements Feasibility (50/50)	57,000
20	(3) Manteo Old House Channel Cap Sec. 204 (65/35)	1,250,000
21	(4) Surf City/NTB Coastal Storm Damage	
22	Reduction Study-PED (75/25)	37,000
23	TOTALS	\$ 2,544,000

24 **SECTION 36.3.(c)** Subject to the limitations imposed by Section 36.2(a) of this
 25 act, the Department of Environment and Natural Resources may determine which projects
 26 listed in subsection (a) of this section shall receive an allocation of State funds in each fiscal
 27 year of the biennium.

28 **SECTION 36.3.(d)** Where the actual costs are different from the estimated costs
 29 under subsection (a) of this section, the Department may adjust the allocations among projects
 30 as needed. If any projects funded under subsection (a) of this section are delayed and the
 31 budgeted State funds cannot be used during the 2013-2015 fiscal biennium, or if the projects
 32 funded under subsection (a) of this section are accomplished at a lower cost, the Department
 33 may use the resulting fund availability to fund any of the following:

- 34 (1) U.S. Army Corps of Engineers project feasibility studies.
- 35 (2) U.S. Army Corps of Engineers projects whose schedules have advanced and
- 36 require State-matching funds in the 2013-2015 fiscal biennium.
- 37 (3) State-local water resources development projects.

38 Funds subject to this subsection that are not expended or encumbered for the purposes set forth
 39 in subdivisions (1) through (3) of this subsection shall revert to the General Fund at the end of
 40 the 2014-2015 fiscal year.

41 **SECTION 36.3.(e)** The Department shall make semiannual reports on the use of
 42 these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal
 43 Research Division, and the Office of State Budget and Management. Each report shall include
 44 all of the following:

- 45 (1) All projects listed in this section.
- 46 (2) The estimated cost of each project.
- 47 (3) The date that work on each project began or is expected to begin.
- 48 (4) The date that work on each project was completed or is expected to be
- 49 completed.
- 50 (5) The actual cost of each project.

1 The semiannual reports also shall show those projects advanced in schedule, those
2 projects delayed in schedule, and an estimate of the amount of funds expected to revert to the
3 General Fund.

4 **SECTION 36.3.(f)** Notwithstanding any provision of law to the contrary, funds
5 appropriated for a water resources development project shall be used to provide no more than
6 fifty percent (50%) of the nonfederal portion of funds for the project. This subsection applies to
7 funds appropriated in this act and to funds appropriated prior to the 2013-2015 fiscal biennium
8 that are unencumbered and proposed for reallocation to provide the nonfederal portion of funds
9 for water resources development projects. The limitation on fund usage contained in this
10 subsection applies only to projects in which a local government or local governments
11 participate.

13 **NON-GENERAL FUND CAPITAL IMPROVEMENT AUTHORIZATIONS**

14 **SECTION 36.4.(a)** The General Assembly authorizes the following capital
15 projects to be funded with receipts or from other non-General Fund sources available to the
16 appropriate department:

17 Name of Project	18 Amount of Non-General Fund Funding Authorized for FY 2013-2014
19 Department of Environment and Natural Resources	
20 Zoo Ocelot	\$ 642,000
21 Zoo Storage Facility	490,000
22 Aquariums – Exhibit Improvements & Interior Renovations 23 at Roanoke Island	5,000,000
24	
25 Department of Public Safety	
26 Tabor Correctional Visitor Registration Center	121,754
27 Correction Enterprise Storage Buildings	75,000
28 NC National Guard	
29 Albemarle Readiness Center	410,000
30 Fort Fisher Training Site	1,138,000
31 Fort Bragg Regional Training Inst.	250,000
32 USPFO Administration Building	350,000
33 Camp Butner West Perimeter Road	495,000
34 J4 Annex Motor Pool New Latrine	30,000
35 High Point Readiness Center Maintenance Shop	70,000
36 Camp Butner Classroom Building Phase 1 Design	50,000
37	
38 Department of Transportation	
39 Lexington Equipment Shop	2,288,000
40 Division 2 Equipment Shop	7,044,300
41 Clay County Equipment Shop	1,210,000
42 Halifax County Salt Storage Shed	186,000
43 Lake Junaluska Salt Storage Shed	266,000
44 Nantahala Salt Storage Shed	35,000
45 Currituck Ferry Welcome Center	1,200,000
46 McDowell County Maintenance/Bridge Maintenance Assembly Office	1,500,000
47 Huntersville Satellite Maintenance Facility	96,300
48 Elizabeth City District/Resident Engineers Office	1,000,000
49 Southport Dormitory	862,000
50 Asheboro Maintenance Warehouse and Sign Subshop	489,000
51 Hatteras Toll Booth	76,000

1	Graham County Maintenance Assembly	704,000
2	Division 8 Office	141,000
3		
4	Wildlife Resources Commission	
5	Land Purchases	3,750,000
6	Table Rock Hatchery Building Replacement	500,000
7	Construction of New Fishing Access Areas	240,000
8	Construction of New Boating Access Areas	800,000
9	Construction of New Shooting Ranges	1,500,000
10	New Cold Water Hatchery – Advance Planning	100,000
11	Holly Shelter Game Lands – Maintenance Building Replacement	250,000
12	Sandhills Depot – Building Replacement	600,000
13	Renovations to Existing BAAs	800,000
14	ADA Initiative of Existing BAAs	280,000
15	Infrastructure R&R	1,500,000
16	Sandhills Depot Shop and Storage Building	435,000
17	Holly Shelter Shop and Secure Storage Building	250,000
18	Tiffany Depot Storage Shed and Shop	165,000

TOTAL AMOUNT OF NON-GENERAL FUND CAPITAL

PROJECTS AUTHORIZED

\$37,389,354

SECTION 36.4.(b) From funds deposited with the State Treasurer in a capital improvement account to the credit of the Department of Agriculture and Consumer Services pursuant to G.S. 146-30, the sum of thirty thousand dollars (\$30,000) for the 2013-2014 fiscal year and the sum of thirty thousand dollars (\$30,000) for the 2014-2015 fiscal year shall be transferred to the Department of Agriculture and Consumer Services to be used, notwithstanding G.S. 146-30, by the Department for its plant conservation program under Article 19B of Chapter 106 of the General Statutes for costs incidental to the acquisition of land, such as land appraisals, land surveys, title searches, and environmental studies, and for the management of the plant conservation program preserves owned by the Department.

REPAIRS AND RENOVATIONS RESERVE ALLOCATION

SECTION 36.5.(a) Of the funds in the Reserve for Repairs and Renovations for the 2013-2014 and the 2014-2015 fiscal year, the following allocations shall be made to the following agencies for repairs and renovations pursuant to G.S. 143C-4-3:

- (1) Forty-six percent (46%) shall be allocated to the Board of Governors of The University of North Carolina.
- (2) Fifty-four percent (54%) shall be allocated to the Office of State Budget and Management.

The Office of State Budget and Management shall consult with or report to the Joint Legislative Commission on Governmental Operations, as appropriate, in accordance with G.S. 143C-4-3(e). The Board of Governors shall report to the Joint Legislative Commission on Governmental Operations in accordance with G.S. 143C-4-3(d).

SECTION 36.5.(b) Notwithstanding G.S. 143C-4-3(d), of the funds allocated to the Board of Governors of The University of North Carolina in subsection (a) of this section, a portion shall be used each fiscal year by the Board of Governors for the installation of fire sprinklers in university residence halls. This portion shall be in addition to funds otherwise appropriated in this act for the same purpose. Such funds shall be allocated among the university's constituent institutions by the President of The University of North Carolina, who shall consider the following factors when allocating those funds:

- (1) The safety and well-being of the residents of campus housing programs.

- 1 (2) The current level of housing rents charged to students and how that
2 compares to an institution's public peers and other UNC institutions.
- 3 (3) The level of previous authorizations to constituent institutions for the
4 construction or renovation of residence halls funded from the General Fund
5 or from bonds or certificates of participation supported by the General Fund
6 since 1996.
- 7 (4) The financial status of each constituent institution's housing system,
8 including debt capacity, debt coverage ratios, credit rankings, required
9 reserves, the planned use of cash balances for other housing system
10 improvements, and the constituent institution's ability to pay for the
11 installation of fire sprinklers in all residence halls.
- 12 (5) The total cost of each proposed project, including the cost of installing fire
13 sprinklers and the cost of other construction, such as asbestos removal and
14 additional water supply needs.

15 The Board of Governors shall submit progress reports to the Joint Legislative
16 Commission on Governmental Operations. Reports shall include the status of completed,
17 current, and planned projects. Reports also shall include information on the financial status of
18 each constituent institution's housing system, the constituent institution's ability to pay for fire
19 protection in residence halls, and the timing of installation of fire sprinklers. Reports shall be
20 submitted on January 1 and July 1 until all residence halls have fire sprinklers.

21 **SECTION 36.5.(c)** Notwithstanding G.S. 143C-4-3(d), of the funds allocated to
22 the Board of Governors of The University of North Carolina in subsection (a) of this section, a
23 portion shall be used each fiscal year by the Board of Governors for campus public safety
24 improvements allowable under G.S. 143C-4-3(b).

25 **SECTION 36.5.(d)** G.S. 143C-4-3(b), as rewritten by Section 6.12(l) of this act,
26 reads as rewritten:

27 "(b) Use of Funds. – The funds in the Repairs and Renovations Reserve shall be used
28 only for the repair and renovation of (i) State facilities and related infrastructure that are
29 supported from the General Fund-Fund or (ii) State Information Technology Services facilities
30 and related infrastructure. Funds from the Repairs and Renovations Reserve shall be used only
31 for the following types of projects:

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

47 Funds from the Repairs and Renovations Reserve shall not be used for new construction or
48 the expansion of the building area (sq. ft.) of an existing facility unless required in order to
49 comply with federal or State codes or standards."
50

51 PROCEDURES FOR DISBURSEMENT OF CAPITAL FUNDS

1 **SECTION 36.6.** The appropriations made by the 2013 General Assembly for
2 capital improvements shall be disbursed for the purposes provided by this act. Expenditure of
3 funds shall not be made by any State department, institution, or agency until an allotment has
4 been approved by the Governor as Director of the Budget. The allotment shall be approved
5 only after full compliance with the State Budget Act, Chapter 143C of the General Statutes.
6 Prior to the award of construction contracts for projects to be financed in whole or in part with
7 self-liquidating appropriations, the Director of the Budget shall approve the elements of the
8 method of financing of those projects, including the source of funds, interest rate, and
9 liquidation period. Provided, however, that if the Director of the Budget approves the method
10 of financing a project, the Director shall report that action to the Joint Legislative Commission
11 on Governmental Operations at its next meeting.

12 Where direct capital improvement appropriations include the purpose of furnishing
13 fixed and movable equipment for any project, those funds for equipment shall not be subject to
14 transfer into construction accounts except as authorized by the Director of the Budget. The
15 expenditure of funds for fixed and movable equipment and furnishings shall be reviewed and
16 approved by the Director of the Budget prior to commitment of funds.

17 Capital improvement projects authorized by the 2013 General Assembly shall be
18 completed, including fixed and movable equipment and furnishings, within the limits of the
19 amounts of the direct or self-liquidating appropriations provided, except as otherwise provided
20 in this act. Capital improvement projects authorized by the 2013 General Assembly for the
21 design phase only shall be designed within the scope of the project as defined by the approved
22 cost estimate filed with the Director of the Budget, including costs associated with site
23 preparation, demolition, and movable and fixed equipment.

24 25 **REPORTING ON CAPITAL PROJECTS**

26 **SECTION 36.7.(a)** Definitions. – The following definitions apply in this section:

- 27 (1) Capital project. – Any capital improvement, as that term is defined in
28 G.S. 143C-1-1, that is not complete by the effective date of this section and
29 that is funded in whole or in part with State funds, including receipts,
30 non-General Fund sources, or statutorily or constitutionally authorized
31 indebtedness of any kind. This term includes only projects with a total cost
32 of one hundred thousand dollars (\$100,000) or more.
- 33 (2) Construction phase. – The status of a particular capital project as described
34 using the terms customarily employed in the design and construction
35 industries.
- 36 (3) New capital project. – A capital project that is authorized in this act or
37 subsequent to the effective date of this act.

38 **SECTION 36.7.(b)** Reporting. – The following reports are required:

- 39 (1) By October 1, 2013, and every six months thereafter, each State agency shall
40 report on the status of agency capital projects to the Joint Legislative
41 Commission on Governmental Operations and to the Joint Legislative
42 Oversight Committee on Capital Improvements.
- 43 (2) By October 1, 2013, and quarterly thereafter, each State agency shall report
44 on the status of agency capital projects to the Fiscal Research Division and
45 to the Office of State Budget and Management.

46 **SECTION 36.7.(c)** The reports required by subsection (b) of this section shall
47 include at least the following information about every agency capital project:

- 48 (1) The current construction phase of the project.
- 49 (2) The anticipated time line from the current construction phase to project
50 completion.

- 1 (3) Information about expenditures that have been made in connection with the
2 project, regardless of source of the funds expended.
- 3 (4) Information about the adequacy of funding to complete the project,
4 including estimates of how final expenditures will relate to initial estimates
5 of expenditures, and whether or not scope reductions will be necessary in
6 order to complete the project within its budget.
- 7 (5) For new capital projects only, an estimate of the operating costs for the
8 project for the first five fiscal years of its operation.

9 **SECTION 36.7.(d)** In addition to the other reports required by this section, on
10 October 1, 2013, and every six months thereafter, the Office of State Construction shall report
11 on the status of the Facilities Condition Assessment Program (FCAP) to the Joint Legislative
12 Commission on Governmental Operations. The report shall include (i) summary information
13 about the average length of time that passes between FCAP assessments for an average State
14 building; (ii) detailed information about when the last FCAP assessment was for each State
15 building complex; and (iii) detailed information about the condition and repairs and renovations
16 needs of each State building complex.

17 **SECTION 36.7.(e)** In addition to the other reports required by this section, on
18 October 1, 2013, and quarterly thereafter, the State Construction Office shall report to the
19 General Assembly on the status of plan review, approval, and permitting for each State capital
20 improvement project and community college capital improvement project over which the
21 Office exercises plan review, approval, and permitting authority. Each report shall include (i)
22 summary information about the workload of the Office during the previous quarter, including
23 information about the average length of time spent by the State Construction Office on each
24 major function it performs that is related to capital project approval and (ii) detailed
25 information about the amount of time spent engaged in those functions for each project that the
26 State Construction Office worked on during the previous quarter.

27
28 **REQUIRE PRIOR LEGISLATIVE AUTHORIZATION FOR SALES, LEASES, OR**
29 **RENTALS OF CERTAIN PROPERTY BELOW FAIR MARKET VALUE**

30 **SECTION 36.8.** G.S. 146-29.1 is amended by adding the following new
31 subsections to read:

32 "(f) If the fair market value of State-owned real property exceeds one million dollars
33 (\$1,000,000), a gift of any interest in the property or a sale, lease, or rental of any interest in the
34 property for below fair market value shall not be effective until the later of the following:

35 (1) If a bill that specifically disapproves the transaction is introduced in either
36 house of the General Assembly before the 31st legislative day of the next
37 regular session of the General Assembly that begins at least 25 days after the
38 date that the agreement making the transfer is entered into, the earlier of (i)
39 the day that an unfavorable final action is taken on the bill or (ii) the day that
40 the General Assembly adjourns without ratifying the bill.

41 (2) The 31st legislative day of the session of the General Assembly described in
42 subdivision (1) of this section, if a bill disapproving the transaction is not
43 introduced before that day.

44 (f1) For the purpose of subsection (f) of this section:

45 (1) "Next regular session" means:

46 a. For odd-numbered years its initial convening.

47 b. For even-numbered years the first reconvening of the regular session
48 as provided in the joint resolution setting the date for reconvening.

49 (2) "Adjourns" means:

50 a. For odd-numbered years the date the General Assembly adjourns by
51 joint resolution for a period of more than 30 days.

1 b. For even-numbered years the date of sine die adjournment.
 2 (f2) If the transaction is approved under subsection (f) of this section, but the agreement
 3 provides a later effective date, then it takes effect on the date specified in the agreement.
 4 (f3) Nothing in subsection (f) of this section restricts the General Assembly from
 5 enacting a law specifically approving the transaction.
 6 (g) If the General Assembly ratifies a disapproving bill, the disapproved transaction
 7 shall not be effective unless it is vetoed by the Governor and the veto is not overridden, and in
 8 such case the transaction is effective upon sine die adjournment of that regular session.
 9 The terms of any agreement to transfer an interest in real property under this section are
 10 deemed to incorporate the provisions of subsections (f) through (f2) of this section, and any
 11 transaction that does not comply with these subsections is void."

12
 13 **AUTHORIZE UNC CARRYFORWARD FUNDS TO BE USED FOR REPAIRS AND**
 14 **RENOVATIONS**

15 **SECTION 36.9.** Notwithstanding any other provision of law, for purposes of
 16 G.S. 143C-8-12, the term "non-General Fund money" includes funds carried forward from one
 17 fiscal year to another pursuant to G.S. 116-30.3. However, these funds shall only be used for
 18 projects listed in G.S. 143C-4-3(b). This section shall expire on June 30, 2014.

19
 20 **LIMIT UNC REPAIRS AND MAINTENANCE EXEMPTION**

21 **SECTION 36.10.** G.S. 116-13.1(c) reads as rewritten:
 22 "(c) Approval of Certain Repair and Maintenance Projects. – Notwithstanding
 23 G.S. 143C-8-7, the chancellor of a constituent institution may approve the expenditure of
 24 available operating funds in an amount not to exceed one million dollars (\$1,000,000) per
 25 project ~~for repairs to institution facilities, renovations to institution facilities, maintenance of~~
 26 ~~those facilities, and related equipment purchases for projects that are of a type listed in~~
 27 G.S. 143C-4-3(b) and that are for State facilities and related infrastructure that are supported
 28 from the General Fund. Funds contractually obligated to an approved project shall not revert at
 29 the end of the fiscal year and will remain available to fund the completion of the project.
 30 Projects approved pursuant to this subsection shall in all other respects accord with applicable
 31 laws governing capital improvement projects. The chancellor of a constituent institution shall
 32 report the approval of an expenditure under this subsection to the Office of State Budget and
 33 Management and to the Fiscal Research Division of the Legislative Services Commission
 34 within 60 days of the approval."

35
 36 **NATIONAL GUARD PROJECTS**

37 **SECTION 36.11.(a)** The Department of Public Safety shall allocate funds for
 38 National Guard capital projects during the 2013-2015 fiscal biennium in accordance with the
 39 schedule that follows. These funds will provide a State match for an estimated twenty-one
 40 million dollars (\$21,000,000) in federal funds. The projects authorized, the allocation of State
 41 funds for each project, and the total project cost authorized for each project are as follows:

	Name of Project	State Fund Allocation	Total Project Cost
42			
43	(1) Wilmington Building Expansion/Rehab	\$ 375,000	\$ 1,125,000
44	(2) Wilmington Site Expansion/Rehab	250,000	1,250,000
45	(3) Nashville Building Expansion/Rehab	375,000	1,125,000
46	(4) Nashville Site Expansion/Rehab	250,000	1,250,000
47	(5) Clinton Building Expansion/Rehab	375,000	1,125,000
48	(6) Clinton Site Expansion/Rehab	250,000	1,250,000
49	(7) Salisbury Building Expansion/Rehab	375,000	1,125,000
50	(8) Salisbury Site Expansion/Rehab	250,000	1,250,000
51	(9) Parkton Building Expansion/Rehab	375,000	1,125,000

1	(10)	Parkton Site Expansion/Rehab	250,000	1,250,000
2	(11)	Benson Building Expansion/Rehab	375,000	1,125,000
3	(12)	Benson Site Expansion/Rehab	250,000	1,250,000
4	(13)	Charlotte Building Expansion/Rehab	375,000	1,125,000
5	(14)	Asheboro Site Expansion/Rehab	250,000	1,250,000
6	(15)	Winston-Salem Building Expansion/Rehab	375,000	1,125,000
7	(16)	Winston-Salem Site Expansion/Rehab	250,000	1,250,000
8	(17)	Concord Building Expansion/Rehab	375,000	1,125,000
9	(18)	Concord Site Expansion/Rehab	250,000	1,250,000
10	(19)	Burlington Site Expansion/Rehab	375,000	1,125,000
11	(20)	Albemarle Site Expansion/Rehab	375,000	1,125,000
12	(21)	Belmont Building Rehab	375,000	1,125,000
13	(22)	Beulaville Building Expansion/Rehab	375,000	1,125,000
14	(23)	Boone Building Expansion/Rehab	375,000	1,125,000
15	(24)	Dunn Building Expansion/Rehab	375,000	1,125,000
16	(25)	Durham Building Expansion/Rehab	375,000	1,125,000
17	TOTALS		\$ 8,250,000	29,250,000

18 **SECTION 36.11.(b)** Subject to the limitations imposed by Section 36.2(a) of this
 19 act, the Adjutant General of the National Guard may determine which projects listed in
 20 subsection (a) of this section shall receive an allocation of State funds in each fiscal year of the
 21 biennium.

22 **SECTION 36.11.(c)** Where the actual costs are different from the estimated costs
 23 under subsection (a) of this section, the Adjutant General of the National Guard may adjust the
 24 allocations among projects as needed. However, State funds shall not be allocated to a project
 25 in excess of the maximum amount of State funds authorized to be allocated to the project under
 26 subsection (a) of this section. If any projects funded under subsection (a) of this section are
 27 delayed and the budgeted State funds cannot be used during the 2013-2015 fiscal biennium, or
 28 if the projects funded under subsection (a) of this section are accomplished at a lower cost, the
 29 Department may use the resulting fund availability to fund any of the following:

- 30 (1) Future project feasibility studies.
- 31 (2) Survey, testing, and permitting.
- 32 (3) Planning and execution for reversion of facilities no longer in use.

33 **SECTION 36.11.(d)** No later than June 1, 2015, and every two years thereafter, the
 34 Department shall report on the use of these funds to the Joint Legislative Commission on
 35 Governmental Operations, the Fiscal Research Division, and the Office of State Budget and
 36 Management. Each report shall include all of the following:

- 37 (1) The status of all projects listed in this section.
- 38 (2) The estimated total cost of each project.
- 39 (3) The date that work on each project began or is expected to begin.
- 40 (4) The date that work on each project was completed or is expected to be
 41 completed.
- 42 (5) The actual cost of each project, including federal matching funds.
- 43 (6) Facilities planned for closure or reversion.
- 44 (7) A list of projects advanced in schedule, those projects delayed in schedule,
 45 and an estimate of the amount of funds expected to revert to the General
 46 Fund.

47 **SECTION 36.11.(e)** Chapter 127A of the General Statutes is amended by adding a
 48 new Article to read:

49 "Article 17.

50 "Armory and Facility Development Projects and Plan.

51 **"§ 127A-210. Armory and facility development project plan.**

1 (a) Plan Prepared. – No later than July 1 of each year, the Department of Public Safety
2 shall prepare a statewide plan for armories for a period of seven years into the future. The plan
3 shall be known as the Armory and Facilities Development Plan. If the plan differs from the
4 Armory and Facilities Development Plan adopted for the preceding calendar year, the
5 Department shall indicate the changes and the reasons for such changes. The Department shall
6 submit the plan to the Director of the Budget for review.

7 (b) Projects Listed. – The plan shall list the following armory and facilities projects
8 based on their status as of May 1 of the year in which the plan is prepared:

9 (1) Projects approved by the Congress of the United States but for which federal
10 funds have not been appropriated.

11 (2) Projects for which the Congress of the United States has appropriated funds.

12 (c) Project Priorities and Funding Recommendations. – The Department shall assign a
13 priority to each project within each of the two categories listed under subsection (b) of this
14 section, either by giving the project a number with "1" assigned to the highest priority, or by
15 recommending no funding. The Department shall state its reasons for recommending the
16 funding, deferral, or elimination of a project. The Department shall determine the priority of a
17 project based on the following criteria: federal requirements, a project's proximity to
18 transportation infrastructure and other critical State and federal assets, and a project's ability to
19 further the mission of the National Guard.

20 (d) Distribution of the Plan. – The Director of the Budget shall provide copies of the
21 plan to the General Assembly along with the recommended biennial budget and the
22 recommended revised budget for the second year of the biennium.

23 (e) Budget Recommendations. – The Director of the Budget shall determine which
24 projects, if any, will be included in the recommended biennial budget and in the recommended
25 revised budget for the second year of the biennium. The budget document transmitted to the
26 General Assembly shall identify the projects or types of projects recommended for funding.

27 (f) Definitions. – For purposes of this section, the terms "armory," "armory site," and
28 "facilities" shall have the same meaning as in G.S. 127A-161."

29 **SECTION 36.11.(f)** G.S. 127A-169 reads as rewritten:

30 **"§ 127A-169. Unexpended portion of State appropriation.**

31 The unexpended portion of any appropriation from the General Fund of the State for the
32 purposes set out in this ~~Article~~, Article, or in Article 17 of this Chapter, remaining at the end of
33 any biennium, shall not revert to the General Fund of the State, but shall constitute part of a
34 permanent fund to be expended from time to time in the manner and for the purposes set out in
35 this Article."
36

37 **TWO-THIRDS BONDS ACT OF 2013**

38 **SECTION 36.12.(a)** Short Title. – This section may be cited as the "Two-Thirds
39 Bonds Act of 2013."

40 **SECTION 36.12.(b)** Findings and Determinations. – It is the intent and purpose of
41 the General Assembly by this section to provide for the issuance of general obligation bonds or
42 notes of the State in order to provide funds for the cost of State capital facilities.

43 **SECTION 36.12.(c)** Definitions. – The following definitions apply in this section
44 unless the context otherwise requires:

45 (1) Bonds. – Bonds issued under this section.

46 (2) Cost. – The term includes all of the following:

47 a. The cost of constructing, reconstructing, renovating, repairing,
48 enlarging, acquiring, and improving State capital facilities, including
49 the acquisition of land, rights-of-way, easements, franchises,
50 equipment, machinery, furnishings, and other interests in real or

- 1 personal property acquired or used in connection with a State capital
2 facility.
- 3 b. The cost of engineering, architectural, and other consulting services
4 as may be required.
- 5 c. Administrative expenses and charges.
- 6 d. The cost of providing personnel to ensure effective project
7 management.
- 8 e. The cost of bond insurance, investment contracts, credit enhancement
9 and liquidity facilities, interest-rate swap agreements or other
10 derivative products, financial and legal consultants, and related costs
11 of bond and note issuance, to the extent and as determined by the
12 State Treasurer.
- 13 f. Finance charges, reserves for debt service and other types of reserves
14 required pursuant to the terms of any bond or note or related
15 documents, interest before and during construction or acquisition of a
16 State capital facility and, if considered advisable by the State
17 Treasurer, for a period not exceeding two years after the estimated
18 date of completion of construction or acquisition.
- 19 g. The cost of bond insurance, investment contracts, credit enhancement
20 facilities and liquidity facilities, interest-rate swap agreements or
21 other derivative products, financial and legal consultants, and related
22 costs of the incurrence or issuance of any bond or note.
- 23 h. The cost of reimbursing the State for any payments made for any cost
24 described in this subdivision.
- 25 i. Any other costs and expenses necessary or incidental to the purposes
26 of this section.
- 27 (3) Credit facility. – An agreement entered into by the State Treasurer on behalf
28 of the State with a bank, savings and loan association or other banking
29 institution, an insurance company, reinsurance company, surety company or
30 other insurance institution, a corporation, investment banking firm or other
31 investment institution, or any financial institution or other similar provider
32 of a credit facility, which provider may be located within or without the
33 United States, such agreement providing for prompt payment of all or any
34 part of the principal or purchase price (whether at maturity, presentment or
35 tender for purchase, redemption, or acceleration), redemption premium, if
36 any, and interest on any bonds or notes payable on demand or tender by the
37 owner, in consideration of the State agreeing to repay the provider of the
38 credit facility in accordance with the terms and provisions of such
39 agreement.
- 40 (4) Notes. – Notes issued under this section.
- 41 (5) Par formula. – A provision or formula adopted by the State to provide for the
42 adjustment, from time to time, of the interest rate or rates borne by any
43 bonds or notes, including:
- 44 a. A provision providing for such adjustment so that the purchase price
45 of such bonds or notes in the open market would be as close to par as
46 possible.
- 47 b. A provision providing for such adjustment based upon a percentage
48 or percentages of a prime rate or base rate, which percentage or
49 percentages may vary or be applied for different periods of time.
- 50 c. Such other provisions as the State Treasurer may determine to be
51 consistent with this section and will not materially and adversely

1 affect the financial position of the State and the marketing of bonds
2 or notes at a reasonable interest cost to the State.

3 (6) State. – The State of North Carolina, including any State agency.

4 (7) State agency. – Any agency, institution, board, commission, bureau, council,
5 department, division, officer, or employee of the State. The term does not
6 include counties, municipal corporations, political subdivisions, local boards
7 of education, or other local public bodies.

8 **SECTION 36.12.(d)** Authorization of Bonds and Notes. – The State Treasurer is
9 authorized, by and with the consent of the Council of State, to issue and sell at one time or from
10 time to time general obligation bonds of the State to be designated "State of North Carolina
11 General Obligation Bonds," with any additional designations as may be determined, or notes of
12 the State, in the aggregate principal amount of one hundred million dollars (\$100,000,000), this
13 amount being not in excess of two-thirds of the amount by which the State's outstanding
14 indebtedness was reduced during the biennium ended June 30, 2013, for the purpose of
15 providing funds, with any other available funds, for the purposes authorized by this section.

16 If the one hundred million dollar (\$100,000,000) maximum principal amount of
17 bonds and notes authorized by this section shall be in excess of two-thirds of the amount by
18 which the State's outstanding indebtedness shall have been reduced during the biennium ended
19 June 30, 2013, then the maximum amount of bonds and notes authorized in this section is
20 reduced by such excess.

21 **SECTION 36.12.(e)** Uses of Bond and Note Proceeds. – The proceeds of bonds
22 and notes shall be used to finance the capital facility costs of repairing and renovating State
23 facilities and related infrastructure as provided in this section.

24 The proceeds of bonds and notes may be used with any other moneys made
25 available by the General Assembly for the capital facility costs of repairing and renovating
26 State facilities and related infrastructure, including the proceeds of any other State bond issues,
27 whether heretofore made available or which may be made available at the session of the
28 General Assembly at which this section is ratified or any subsequent sessions. The proceeds of
29 bonds and notes shall be expended and disbursed under the direction and supervision of the
30 Director of the Budget. The funds provided by this section shall be disbursed for the purposes
31 provided in this section upon warrants drawn on the State Treasurer by the State Controller,
32 which warrants shall not be drawn until requisition has been approved by the Director of the
33 Budget and which requisition shall be approved only after full compliance with the State
34 Budget Act, Chapter 143C of the General Statutes.

35 The Office of State Budget and Management shall provide semiannual reports to the
36 Chairs of the Senate Appropriations/Base Budget Committee and the House of Representatives
37 Appropriations Committee, and to the Fiscal Research Division on the expenditure of moneys
38 authorized by this section. The reports shall continue until the completion of the projects
39 provided for in this section.

40 **SECTION 36.12.(f)** Allocation of Proceeds. – The proceeds of bonds and notes
41 shall be allocated to the Reserve for Repairs and Renovations and reallocated and expended
42 pursuant to Section 36.5 of this act.

43 **SECTION 36.12.(g)** Issuance of Bonds and Notes. –

44 (1) Terms and conditions. – Bonds or notes may bear a date or dates, may be
45 serial or term bonds or notes, or any combination thereof, may mature in
46 such amounts and at such time or times, not exceeding 40 years from their
47 date or dates, may be payable at such place or places, either within or
48 without the United States of America, in such coin or currency of the United
49 States of America as at the time of payment is legal tender for payment of
50 public and private debts, may bear interest at such rate or rates, which may
51 vary from time to time, and may be made redeemable before maturity, at the

1 option of the State or otherwise as may be provided by the State, at such
2 price or prices, including a price less than or greater than the face amount of
3 the bonds or notes, and under such terms and conditions, all as may be
4 determined by the State Treasurer, by and with the consent of the Council of
5 State.

6 (2) Signatures; form and denomination; registration. – Bonds or notes may be
7 issued in certificated or uncertificated form. If issued in certificated form,
8 bonds or notes shall be signed on behalf of the State by the Governor or shall
9 bear the Governor's facsimile signature, shall be signed by the State
10 Treasurer or shall bear the State Treasurer's facsimile signature, and shall
11 bear the Great Seal of the State, or a facsimile of the Seal shall be impressed
12 or imprinted thereon. If bonds or notes bear the facsimile signatures of the
13 Governor and the State Treasurer, the bonds or notes shall also bear a
14 manual signature which may be that of a bond registrar, trustee, paying
15 agent, or designated assistant of the State Treasurer. Should any officer
16 whose signature or facsimile signature appears on bonds or notes cease to be
17 such officer before the delivery of the bonds or notes, the signature or
18 facsimile signature shall nevertheless have the same validity for all purposes
19 as if the officer had remained in office until delivery. Bonds or notes may
20 bear the facsimile signatures of persons who at the actual time of the
21 execution of the bonds or notes shall be the proper officers to sign any bond
22 or note, although at the date of the bond or note, such persons may not have
23 been such officers. The form and denomination of bonds or notes, including
24 the provisions with respect to registration of the bonds or notes and any
25 system for their registration, shall be as the State Treasurer may determine in
26 conformity with this section.

27 (3) Manner of sale; expenses. – Subject to the approval by the Council of State
28 as to the manner in which bonds or notes shall be offered for sale, whether at
29 public or private sale, whether within or without the United States, and
30 whether by publishing notices in certain newspapers and financial journals,
31 mailing notices, inviting bids by correspondence, negotiating contracts of
32 purchase or otherwise, the State Treasurer is authorized to sell bonds or
33 notes at one time or from time to time at any rates of interest, which may
34 vary from time to time, and at any prices, including a price less than or
35 greater than the face amount of the bonds or notes, as the State Treasurer
36 may determine. All expenses incurred in the preparation, sale, and issuance
37 of bonds or notes shall be paid by the State Treasurer from the proceeds of
38 bonds or notes or other available moneys.

39 (4) Notes; repayment. –

40 a. By and with the consent of the Council of State, the State Treasurer
41 is hereby authorized to borrow money and to execute and issue notes
42 of the State for the same, but only in the following circumstances and
43 under the following conditions:

- 44 1. For anticipating the sale of bonds, the issuance of which the
45 Council of State has approved, if the State Treasurer
46 considers it advisable to postpone the issuance of the bonds;
- 47 2. For the payment of interest on or any installment of principal
48 of any bonds then outstanding, if there are not sufficient
49 funds in the State treasury with which to pay the interest or
50 installment of principal as they respectively become due;

1 State or political subdivision of the State for any purpose for which the
2 deposit of bonds, notes, or obligations of the State or any political
3 subdivision is now or may hereafter be authorized by law.

4 (8) Faith and credit. – The faith and credit and taxing power of the State are
5 hereby pledged for the payment of the principal of and the interest on bonds
6 and notes. The State expressly reserves the right to amend any provision of
7 this section to the extent it does not impair any contractual right of a bond
8 owner.

9 (9) Other agreements. – The State Treasurer may authorize, execute, obtain, or
10 otherwise provide for bond insurance, investment contracts, credit and
11 liquidity facilities, interest-rate swap agreements and other derivative
12 products, and any other related instruments and matters the State Treasurer
13 determines are desirable in connection with issuance, incurrence, carrying,
14 or securing of bonds or notes. The State Treasurer is authorized to employ
15 and designate any financial consultants, underwriters, and bond attorneys to
16 be associated with any bond or note issue under this section as the State
17 Treasurer considers necessary.

18 **SECTION 36.12.(h) Variable Rate Demand Bonds and Notes.** – In fixing the
19 details of bonds and notes, the State Treasurer may provide that any of the bonds or notes may:

20 (1) Be made payable from time to time on demand or tender for purchase by the
21 owner, if a credit facility supports the bonds or notes, unless the State
22 Treasurer specifically determines that a credit facility is not required upon a
23 finding and determination by the State Treasurer that the absence of a credit
24 facility will not materially and adversely affect the financial position of the
25 State and the marketing of the bonds or notes at a reasonable interest cost to
26 the State;

27 (2) Be additionally supported by a credit facility;

28 (3) Be made subject to redemption or a mandatory tender for purchase prior to
29 maturity;

30 (4) Bear interest at a rate or rates that may vary for any period of time, as may
31 be provided in the proceedings providing for the issuance of the bonds or
32 notes, including, without limitation, such variations as may be permitted
33 pursuant to a par formula; and

34 (5) Be made the subject of a remarketing agreement whereby an attempt is made
35 to remarket bonds or notes to new purchasers prior to their presentment for
36 payment to the provider of the credit facility or to the State.

37 If the aggregate principal amount payable by the State under a credit facility is in
38 excess of the aggregate principal amount of bonds or notes secured by the credit facility,
39 whether as a result of the inclusion in the credit facility of a provision for the payment of
40 interest for a limited period of time or the payment of a redemption premium or for any other
41 reason, then the amount of authorized but unissued bonds or notes during the term of such
42 credit facility shall not be less than the amount of such excess, unless the payment of such
43 excess is otherwise provided for by agreement of the State executed by the State Treasurer.

44 **SECTION 36.12.(i) Interpretation of Section.** –

45 (1) Additional method. – The foregoing sections of this section shall be deemed
46 to provide an additional and alternative method for the doing of the things
47 authorized under it and shall be regarded as supplemental and additional to
48 powers conferred by other laws and shall not be regarded as in derogation of
49 any powers now existing.

50 (2) Statutory references. – References in this section to specific sections or
51 Chapters of the General Statutes or to specific acts are intended to be

1 references to such sections, Chapters, or acts as they may be amended from
2 time to time by the General Assembly.

3 (3) Broad construction. – This section, being necessary for the health and
4 welfare of the people of the State, shall be broadly construed to effect the
5 purposes thereof.

6 (4) Inconsistent provisions. – Insofar as the provisions of this section are
7 inconsistent with the provisions of any general, special, or local laws, or
8 parts thereof, the provisions of this section shall be controlling.

9 (5) Severability. – If any provision of this section or the application thereof to
10 any person or circumstance is held invalid, such invalidity shall not affect
11 other provisions or applications of the section which can be given effect
12 without the invalid provision or application, and to this end the provisions of
13 this section are declared to be severable.

14 **SECTION 36.12.(j)** Effective Date. – This section is effective when it becomes
15 law.

16 **PART XXXVII. FINANCE PROVISIONS**

17 **SECTION 37.0.** This section is reserved.

18 **PART XXXVIII. MISCELLANEOUS PROVISIONS**

19 **STATE BUDGET ACT APPLIES**

20 **SECTION 38.1.** The provisions of the State Budget Act, Chapter 143C of the
21 General Statutes, are reenacted and shall remain in full force and effect and are incorporated in
22 this act by reference.

23 **MOST TEXT APPLIES ONLY TO THE 2013-2015 FISCAL BIENNIUM**

24 **SECTION 38.2.** Except for statutory changes or other provisions that clearly
25 indicate an intention to have effects beyond the 2013-2015 fiscal biennium, the textual
26 provisions of this act apply only to funds appropriated for, and activities occurring during, the
27 2013-2015 fiscal biennium.

28 **EFFECT OF HEADINGS**

29 **SECTION 38.3.** The headings to the parts and sections of this act are a
30 convenience to the reader and are for reference only. The headings do not expand, limit, or
31 define the text of this act except for effective dates referring to a part.

32 **COMMITTEE REPORT**

33 **SECTION 38.4.(a)** The Senate Appropriations/Base Budget Committee Report on
34 the Continuation, Expansion, and Capital Budgets dated May 21, 2013, which was distributed
35 in the Senate and the House of Representatives and used to explain this act, shall indicate
36 action by the General Assembly on this act and shall therefore be used to construe this act, as
37 provided in the State Budget Act, Chapter 143C of the General Statutes, and for these purposes
38 shall be considered a part of this act and as such shall be printed as a part of the Session Laws.

39 **SECTION 38.4.(b)** The budget enacted by the General Assembly is for the
40 maintenance of the various departments, institutions, and other spending agencies of the State
41 for the 2013-2015 biennial budget as provided in G.S. 143C-3-5. This budget includes the
42 appropriations of State funds as defined in G.S. 143C-1-1(d)(25).

43 The Director of the Budget submitted a recommended continuation budget to the
44 General Assembly on March 15 and 18, 2013, in the document "State of North Carolina
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1 Recommended Continuation Budget and Fund Purpose Statements, 2013-2015" and in the
2 Budget Support Document for the various departments, institutions, and other spending
3 agencies of the State. The adjustments to these documents made by the General Assembly are
4 set out in the Committee Report.

5 **SECTION 38.4.(c)** The budget enacted by the General Assembly shall also be
6 interpreted in accordance with G.S. 143C-5-5, the special provisions in this act, and other
7 appropriate legislation.

8 In the event that there is a conflict between the line-item budget certified by the
9 Director of the Budget and the budget enacted by the General Assembly, the budget enacted by
10 the General Assembly shall prevail.

11
12 **SEVERABILITY CLAUSE**

13 **SECTION 38.5.** If any section or provision of this act is declared unconstitutional
14 or invalid by the courts, it does not affect the validity of this act as a whole or any part other
15 than the part so declared to be unconstitutional or invalid.

16
17 **EFFECTIVE DATE**

18 **SECTION 38.6.** Except as otherwise provided, this act becomes effective July 1,
19 2013.