

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

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**HOUSE BILL 950
Committee Substitute Favorable 5/29/12
Third Edition Engrossed 5/30/12
PROPOSED SENATE COMMITTEE SUBSTITUTE H950-PCS30636-MDxf-29**

Short Title: Modify 2011 Appropriations Act.

(Public)

Sponsors:

Referred to:

May 17, 2012

A BILL TO BE ENTITLED
AN ACT TO MODIFY THE CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS
APPROPRIATIONS ACT OF 2011 AND FOR OTHER PURPOSES.

The General Assembly of North Carolina enacts:

PART I. INTRODUCTION AND TITLE OF ACT

INTRODUCTION

SECTION 1.1. The appropriations made in this act are for maximum amounts necessary to provide the services and accomplish the purposes described in the budget. Savings shall be effected where the total amounts appropriated are not required to perform these services and accomplish these purposes and, except as allowed by the State Budget Act, or this act, the savings shall revert to the appropriate fund at the end of each fiscal year as provided in G.S. 143C-1-2(b).

TITLE OF ACT

SECTION 1.2. This act shall be known as "The Current Operations and Capital Improvements Appropriations Act of 2012."

PART II. CURRENT OPERATIONS AND EXPANSION/GENERAL FUND

CURRENT OPERATIONS AND EXPANSION/GENERAL FUND

SECTION 2.1. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated, are adjusted for the fiscal year ending June 30, 2013, according to the schedule that follows. Amounts set out in parentheses are reductions from General Fund appropriations for the 2012-2013 fiscal year.

Current Operations – General Fund

2012-2013

EDUCATION

Community Colleges System Office

\$ (4,177,523)

Department of Public Instruction

34,142,118



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| | | | |
|----|---|----|--------------|
| 1 | University of North Carolina – Board of Governors | | |
| 2 | Appalachian State University | | 260,876 |
| 3 | East Carolina University | | |
| 4 | Academic Affairs | | 4,447,287 |
| 5 | Health Affairs | | 0 |
| 6 | Elizabeth City State University | | 0 |
| 7 | Fayetteville State University | | 473,656 |
| 8 | NC A&T State University | | 0 |
| 9 | NC Central University | | 0 |
| 10 | NC State University | | |
| 11 | Academic Affairs | | 5,346,252 |
| 12 | Agricultural Research | | 0 |
| 13 | Agricultural Extension | | 0 |
| 14 | UNC-Asheville | | 0 |
| 15 | UNC-Chapel Hill | | |
| 16 | Academic Affairs | | 0 |
| 17 | Health Affairs | | 0 |
| 18 | AHEC | | 0 |
| 19 | UNC-Charlotte | | 0 |
| 20 | UNC-Greensboro | | 103,534 |
| 21 | UNC-Pembroke | | 0 |
| 22 | UNC-School of the Arts | | 0 |
| 23 | UNC-Wilmington | | 434,038 |
| 24 | Western Carolina University | | 0 |
| 25 | Winston-Salem State University | | 0 |
| 26 | General Administration | | 10,558,141 |
| 27 | University Institution Programs | | 14,560,828 |
| 28 | Related Educational Programs | | (12,139,141) |
| 29 | UNC Financial Aid Private Colleges | | 0 |
| 30 | NC School of Science & Math | | 0 |
| 31 | UNC Hospitals | | 0 |
| 32 | Total University of North Carolina – Board of Governors | \$ | 24,045,471 |
| 33 | | | |
| 34 | HEALTH AND HUMAN SERVICES | | |
| 35 | | | |
| 36 | Department of Health and Human Services | | |
| 37 | Division of Central Management and Support | \$ | (28,697,345) |
| 38 | Division of Aging and Adult Services | | 35,300,000 |
| 39 | Division of Services for Blind/Deaf/Hard of Hearing | | 0 |
| 40 | Division of Child Development | | (10,000,000) |
| 41 | Division of Health Service Regulation | | 0 |
| 42 | Division of Medical Assistance | | 229,575,042 |
| 43 | Division of Mental Health, Dev. Disabilities and Sub. Abuse | | 3,245,954 |
| 44 | NC Health Choice | | 0 |
| 45 | Division of Public Health | | 5,077,450 |
| 46 | Division of Social Services | | 0 |
| 47 | Division of Vocational Rehabilitation | | 0 |
| 48 | Total Health and Human Services | \$ | 234,501,101 |
| 49 | | | |
| 50 | NATURAL AND ECONOMIC RESOURCES | | |
| 51 | | | |
| 52 | Department of Agriculture and Consumer Services | \$ | 45,794,624 |
| 53 | | | |
| 54 | Department of Commerce | | |
| 55 | Commerce | | 12,050,590 |
| 56 | Commerce State-Aid | | (2,843,040) |
| 57 | NC Biotechnology Center | | (351,034) |
| 58 | Rural Economic Development Center | | (7,007,535) |
| 59 | | | |

General Assembly Of North Carolina

Session 2011

| | | | |
|----|--|----|--------------|
| 1 | Department of Environment and Natural Resources | | (41,893,545) |
| 2 | | | |
| 3 | DENR Clean Water Management Trust Fund | | 0 |
| 4 | | | |
| 5 | Department of Labor | | (316,738) |
| 6 | | | |
| 7 | Wildlife Resources Commission | | 434,397 |
| 8 | | | |
| 9 | JUSTICE AND PUBLIC SAFETY | | |
| 10 | | | |
| 11 | Department of Public Safety | \$ | (35,437,508) |
| 12 | | | |
| 13 | Judicial Department | | (4,279,349) |
| 14 | Judicial Department – Indigent Defense | | 0 |
| 15 | | | |
| 16 | Department of Justice | | (6,375,063) |
| 17 | | | |
| 18 | GENERAL GOVERNMENT | | |
| 19 | | | |
| 20 | Department of Administration | \$ | (907,061) |
| 21 | | | |
| 22 | Department of State Auditor | | (213,521) |
| 23 | | | |
| 24 | Office of State Controller | | 780,018 |
| 25 | | | |
| 26 | Department of Cultural Resources | | |
| 27 | Cultural Resources | | (1,233,940) |
| 28 | Roanoke Island Commission | | (24,070) |
| 29 | | | |
| 30 | State Board of Elections | | 461,404 |
| 31 | | | |
| 32 | General Assembly | | 1,570,422 |
| 33 | | | |
| 34 | Office of the Governor | | |
| 35 | Office of the Governor | | (94,823) |
| 36 | Office of State Budget and Management | | (116,973) |
| 37 | OSBM – Reserve for Special Appropriations | | (61,612) |
| 38 | Housing Finance Agency | | (8,064,634) |
| 39 | | | |
| 40 | Department of Insurance | | |
| 41 | Insurance | | (73,550) |
| 42 | Insurance – Volunteer Safety Workers' Compensation | | 0 |
| 43 | | | |
| 44 | Office of Lieutenant Governor | | (144,150) |
| 45 | | | |
| 46 | Office of Administrative Hearings | | (82,845) |
| 47 | | | |
| 48 | Department of Revenue | | (1,563,991) |
| 49 | | | |
| 50 | Department of Secretary of State | | (213,091) |
| 51 | | | |
| 52 | Department of State Treasurer | | |
| 53 | State Treasurer | | 0 |
| 54 | State Treasurer – Retirement for Fire and Rescue Squad Workers | | 0 |
| 55 | | | |
| 56 | RESERVES, ADJUSTMENTS AND DEBT SERVICE | | |
| 57 | | | |
| 58 | Information Technology Fund | \$ | (750,000) |
| 59 | Reserve for Job Development Investment Grants (JDIG) | | (6,500,000) |

| | | |
|----|--|-----------------------|
| 1 | Judicial Retirement System Contribution | 100,000 |
| 2 | Continuation Review Reserve | (35,576,758) |
| 3 | Performance Pay Reserve | (121,105,840) |
| 4 | Reserve for Compensation Increases and Personnel Flexibility | 159,984,426 |
| 5 | Disability Income Plan Rate Reduction | (8,688,000) |
| 6 | One North Carolina Fund | 9,000,000 |
| 7 | Reserve for VIPER | 25,000,000 |
| 8 | | |
| 9 | Debt Service | |
| 10 | General Debt Service | (52,904,635) |
| 11 | | |
| 12 | TOTAL CURRENT OPERATIONS – GENERAL FUND | \$ 206,863,742 |

GENERAL FUND AVAILABILITY STATEMENT

SECTION 2.2.(a) Section 2.2(a) of S.L. 2011-145, as amended by Section 2(b) of S.L. 2011-391 and Section 5(a) of S.L. 2011-395, is repealed. The General Fund availability used in adjusting the 2012-2013 budget is shown below:

| | | FY 2012-2013 |
|----|---|-----------------------|
| 20 | Unappropriated Balance Remaining | \$ 41,232,325 |
| 21 | Anticipated Overcollections from FY 2011-2012 | 232,500,000 |
| 22 | Anticipated Reversions for FY 2011-2012 | 205,500,000 |
| 23 | Net Supplemental Medicaid Appropriation (S.L. 2012-2) | (154,000,000) |
| 24 | Less Earmarkings of Year-End Fund Balance | |
| 25 | Savings Reserve Account | (139,339,925) |
| 26 | Repairs and Renovations Reserve Account | (39,339,925) |
| 27 | Beginning Unreserved Fund Balance | \$ 146,552,475 |
| 28 | | |
| 29 | Revenue Based on Existing Tax Structure | 18,931,200,000 |
| 30 | | |
| 31 | Nontax Revenue | |
| 32 | Investment Income | 21,600,000 |
| 33 | Judicial Fees | 258,700,000 |
| 34 | Disproportionate Share | 115,000,000 |
| 35 | Insurance | 73,700,000 |
| 36 | Other Nontax Revenues | 304,400,000 |
| 37 | Highway Trust Fund Transfer | 27,600,000 |
| 38 | Highway Fund Transfer | 212,280,000 |
| 39 | Total – Nontax Revenues | 1,013,280,000 |
| 40 | | |
| 41 | Subtotal General Fund Availability | 20,091,032,475 |
| 42 | | |
| 43 | Adjustments to Availability: 2012 Session | |
| 44 | E-Commerce Reserve Cash Balance | 2,470,642 |
| 45 | One North Carolina Fund Cash Balance | 50,000,000 |
| 46 | Sale of State Assets Receipt | (25,000,000) |
| 47 | Information Technology Internal Service Fund Cash Balance | 14,000,000 |
| 48 | National Mortgage Settlement | 9,610,000 |
| 49 | Highway Fund Transfer – Technical Adjustment | 8,000,000 |
| 50 | Work Opportunity Tax Credit Extension | (800,000) |
| 51 | | |
| 52 | Subtotal Adjustments to Availability: | 58,280,642 |
| 53 | | |
| 54 | Revised Total General Fund Availability | 20,149,313,117 |
| 55 | Less General Fund Appropriations | 20,149,313,117 |
| 56 | | |
| 57 | Balance Remaining | 0 |
| 58 | | |

SECTION 2.2.(b) Notwithstanding the provisions of G.S. 143C-4-3, the State Controller shall transfer only thirty-nine million six hundred eighty-nine thousand nine hundred twenty-five dollars (\$39,689,925) from the unreserved fund balance to the Repairs and Renovations Reserve Account on June 30, 2012.

SECTION 2.2.(c) Funds transferred under this section to the Repairs and Renovations Reserve Account are appropriated for the 2012-2013 fiscal year to be used in accordance with G.S. 143C-4-3.

SECTION 2.2.(d) Notwithstanding G.S. 143C-4-2 and pursuant to subsection (a) of this section, the State Controller shall transfer one hundred thirty-nine million six hundred eighty-nine thousand nine hundred twenty-five dollars (\$139,689,925) from the unreserved fund balance to the Savings Reserve Account on June 30, 2012.

This is not an "appropriation made by law," as that phrase is used in Section 7(1) of Article V of the North Carolina Constitution.

SECTION 2.2.(e) Notwithstanding any other provision of law, the sum of fourteen million dollars (\$14,000,000) shall be transferred from the Information Technology Internal Service Fund ending balance for State fiscal year 2011-2012, Budget Code 74660, to the State Controller to be deposited in the appropriate budget code as determined by the State Controller for the 2012-2013 fiscal year.

SECTION 2.2.(g) Notwithstanding any other provision of law, the sum of fifty million dollars (\$50,000,000) from the Department of Commerce, One North Carolina Fund, shall be transferred to the State Controller to be deposited in the appropriate budget code as determined by the State Controller for the 2012-2013 fiscal year.

SECTION 2.2.(h) Notwithstanding any other provision of law, the sum of two million four hundred seventy thousand six hundred forty-two dollars (\$2,470,642) from the E-Commerce Reserve, Budget Code 24100, shall be transferred to the State Controller to be deposited in the appropriate budget code as determined by the State Controller for the 2012-2013 fiscal year.

SECTION 2.2.(k) This section becomes effective June 30, 2012.

PART III. CURRENT OPERATIONS/HIGHWAY FUND

CURRENT OPERATIONS/HIGHWAY FUND

SECTION 3.1. Appropriations from the State Highway Fund for the maintenance and operation of the Department of Transportation and for other purposes as enumerated are adjusted for the fiscal year ending June 30, 2013, according to the following schedule. Amounts set out in parentheses are reductions from Highway Fund Appropriations for the 2012-2013 fiscal year.

| Current Operations – Highway Fund | 2012-2013 |
|--|------------------|
| Department of Transportation | |
| Administration | \$ 1,595,705 |
| Division of Highways | |
| Administration | (164,266) |
| Construction | (17,737,270) |
| Maintenance | (40,866,948) |
| Planning and Research | 0 |
| OSHA Program | 0 |
| Ferry Operations | (3,000,000) |
| State Aid | |
| Municipalities | (912,604) |
| Public Transportation | (28,972,845) |
| Airports | 0 |
| Railroads | 0 |
| Governor's Highway Safety Program | 0 |

| | | |
|---|---|-------------------------|
| 1 | Division of Motor Vehicles | 50,173,639 |
| 2 | Other State Agencies, Reserves, and Transfers | (64,065,411) |
| 3 | Capital Improvements | 0 |
| 4 | | |
| 5 | Total | \$ (103,950,000) |

HIGHWAY FUND AVAILABILITY STATEMENT

8 **SECTION 3.2.** Section 3.2 of S.L. 2011-145 is repealed. The Highway Fund
 9 availability used in adjusting the 2012-2013 fiscal year budget is shown below:

| 11 | Highway Fund Availability Statement | 2012-2013 |
|----|---|-------------------------|
| 13 | Unreserved Fund Balance | \$ 33,000,000 |
| 14 | Revenue Based On Existing Law | 2,062,680,000 |
| 15 | Adjustment to Revenue Availability (Motor Fuels Tax) | \$ (46,650,000) |
| 16 | Adjustment to Revenue Availability (Civil Penalties) | \$ (22,000,000) |
| 17 | Adjustment to Revenue Availability (Limited Learner's Permit) | \$ 3,180,000 |
| 18 | | |
| 19 | Revised Total Highway Fund Availability | \$ 2,030,210,000 |
| 20 | | |
| 21 | Unappropriated Balance | \$ 0 |

PART IV. HIGHWAY TRUST FUND APPROPRIATIONS**CURRENT OPERATIONS/HIGHWAY TRUST FUND**

26 **SECTION 4.1.** Appropriations from the State Highway Trust Fund for the
 27 maintenance and operation of the Department of Transportation and for other purposes as
 28 enumerated are adjusted for the fiscal year ending June 30, 2013, according to the following
 29 schedule. Amounts set out in brackets are reductions from Highway Trust Fund Appropriations
 30 for the 2012-2013 fiscal year.

| 32 | Current Operations – Highway Trust Fund | 2012-2013 |
|----|---|------------------------|
| 34 | Intrastate System | \$ (9,338,145) |
| 35 | Aid to Municipalities | (979,789) |
| 36 | Secondary Roads | (979,789) |
| 37 | Urban Loops | (3,775,957) |
| 38 | Program Administration | (1,516,320) |
| 39 | Turnpike Authority | (32,500,000) |
| 40 | | |
| 41 | Transfer to General Fund | 0 |
| 42 | Transfer to Highway Fund | 0 |
| 43 | Debt Service | 0 |
| 44 | Mobility Fund | 77,500,000 |
| 45 | Reserves | (45,000,000) |
| 46 | | |
| 47 | | |
| 48 | GRAND TOTAL CURRENT OPERATIONS | \$ (16,590,000) |

HIGHWAY TRUST FUND AVAILABILITY STATEMENT

51 **SECTION 4.2.** Section 4.2 of S.L. 2011-145 is repealed. The Highway Trust Fund
 52 availability used in developing the 2012-2013 fiscal year budget is shown below:

| 54 | Highway Trust Fund Availability | 2012-2013 |
|----|--|---------------|
| 56 | Unreserved Fund Balance | \$ 15,000,000 |
| 57 | Revenue Based on Existing Law | 1,070,870,000 |
| 58 | Adjustment to Revenue Availability (Motor Fuels Tax) | (15,550,000) |
| 59 | | |

1 Revised Total Highway Trust Fund Availability \$1,070,320,000

2
3 PART V. OTHER APPROPRIATIONS

4
5 ELIMINATE REPORTING REQUIREMENT/APPROPRIATION OF OTHER
6 FUNDS/USE OF DEPARTMENTAL RECEIPTS

7 SECTION 5.1. Section 5.1 of S.L. 2011-145 reads as rewritten:

8 "SECTION 5.1.(a) State funds, as defined in G.S. 143C-1-1(d)(25), are appropriated as
9 provided in G.S. 143C-1-2 for the 2011-2013 fiscal biennium, with the adjustments made to the
10 continuation budget as reflected in the Governor's Recommended Budget and Budget Support
11 Document, as follows:

- 12 (1) For all budget codes listed in "The State of North Carolina Governor's
13 Recommended Budget, 2011-2013" and in the Budget Support Document,
14 cash balances and receipts are appropriated up to the amounts specified, as
15 adjusted by the General Assembly, for the 2011-2012 fiscal year and the
16 2012-2013 fiscal year. Funds may be expended only for the programs,
17 purposes, objects, and line items or as otherwise authorized by the General
18 Assembly. Expansion budget funds listed in those documents are
19 appropriated only as otherwise provided in this act.
- 20 (2) Notwithstanding the provisions of subdivision (1) of this subsection:
- 21 a. Any receipts that are required to be used to pay debt service
22 requirements for various outstanding bond issues and certificates of
23 participation are appropriated up to the actual amounts received for
24 the 2011-2012 fiscal year and the 2012-2013 fiscal year and shall be
25 used only to pay debt service requirements.
- 26 b. Other funds, cash balances, and receipts of funds that meet the
27 definition issued by the Governmental Accounting Standards Board
28 of a trust or agency fund are appropriated for and in the amounts
29 required to meet the legal requirements of the trust agreement for the
30 2011-2012 fiscal year and the 2012-2013 fiscal year.

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

37 ~~"SECTION 5.1.(c) In addition to the consultation and reporting requirements set out in~~
38 ~~G.S. 143C-6-4, the Office of State Budget and Management shall report to the Joint Legislative~~
39 ~~Commission on Governmental Operations and to the Fiscal Research Division within 30 days~~
40 ~~after the end of each quarter on any overrealized receipts approved for expenditure under this~~
41 ~~subsection by the Director of the Budget. The report shall include the source of the receipt, the~~
42 ~~amount overrealized, the amount authorized for expenditure, and the rationale for expenditure.~~

43 "SECTION 5.1.(d) ~~Notwithstanding subsections (a) and (b) of this section, there is~~
44 ~~appropriated from the Reserve for Reimbursements to Local Governments and Shared Tax~~
45 ~~Revenues for each fiscal year an amount equal to the amount of the distributions required by~~
46 ~~law to be made from that reserve for that fiscal year. Notwithstanding subsections (a) and (b) of~~
47 ~~this section, the following additional appropriations are hereby made:~~

- 48 (1) There is appropriated from the Reserve for Reimbursements to Local
49 Governments and Shared Tax Revenues for each fiscal year an amount equal
50 to the amount of the distributions required by law to be made from that
51 reserve for that fiscal year.
- 52 (2) There is appropriated from the General Fund an amount equal to the amount
53 required to issue refunds for tax overpayments, in accordance with the
54 provisions of Chapter 105 of the General Statutes or any other applicable
55 law.
- 56 (3) There is appropriated from the Escheat Fund any escheated property
57 awarded to a claimant in accordance with the provisions of Chapter 116B of
58 the General Statutes or any other applicable law.

(4) There is appropriated from the appropriate fund, an amount equal to the amount required to refund any other overpayment made to a State agency, in accordance with applicable law."

EXPENDITURE OF FUNDS RECEIVED FROM GRANTS AWARDED SUBSEQUENT TO BUDGET ENACTMENT

SECTION 5.2. Section 5.2(a) of S.L. 2011-145 reads as rewritten:

"SECTION 5.2.(a) Notwithstanding G.S. 143C-6-4, State agencies may, with approval of the Director of the ~~Budget and after consultation with the Joint Legislative Commission on Governmental Operations, Budget,~~ spend funds received from grants awarded subsequent to the enactment of this act. A State agency shall report expenditures of any grants received subsequent to the enactment of The Current Operations and Capital Improvements Appropriations Act of 2012 to the Joint Legislative Commission on Governmental Operations within 30 days."

EDUCATION LOTTERY

SECTION 5.3.(a) Notwithstanding G.S. 18C-164, the revenue used to support appropriations made in this act is transferred from the State Lottery Fund in the amount of four hundred forty-one million three hundred fifty-nine thousand four hundred one dollars (\$441,359,401) for the 2012-2013 fiscal year.

SECTION 5.3.(b) Notwithstanding G.S. 18C-164, the North Carolina State Lottery Commission shall not transfer funds to the Education Lottery Reserve Fund for the 2012-2013 fiscal year.

SECTION 5.3.(c) Section 5.4(f) of S.L. 2011-145 is repealed.

SECTION 5.3.(d) Notwithstanding G.S. 18C-164(f) or any other provision of law, excess lottery receipts realized in the 2011-2012 fiscal year in the amount of twenty-five million five hundred eighty-eight thousand three hundred seventy dollars (\$25,588,370) shall be allocated for UNC Need-Based Financial Aid.

SECTION 5.3.(g) Notwithstanding G.S. 18C-164, the appropriations made from the Education Lottery Fund for the 2012-2013 fiscal year are as follows:

| | |
|-------------------------------------|----------------|
| Teachers in Early Grades | \$ 220,643,188 |
| Prekindergarten Program | \$ 63,135,709 |
| Public School Building Capital Fund | \$ 100,000,000 |
| Scholarships for Needy Students | \$ 30,450,000 |
| UNC Need-Based Financial Aid | \$ 52,718,874 |
| Total Appropriation | \$ 466,947,771 |

SECTION 5.3.(h) Notwithstanding G.S. 18C-164(c), G.S. 115C-546.2(d), or any other provision of law, funds appropriated in this section to the Public School Building Capital Fund for the 2012-2013 fiscal year shall be allocated to counties on the basis of average daily membership (ADM).

SECTION 5.3.(i) Notwithstanding G.S. 18C-164(c), Article 35A of Chapter 115C of the General Statutes, or any other provision of law, the funds appropriated in this section for UNC Need-Based Financial Aid shall be administered in accordance with the policy adopted by the Board of Governors of The University of North Carolina.

SECTION 5.3.(j) Notwithstanding G.S. 18C-164(f), if the actual net lottery revenues for the 2012-2013 fiscal year exceed the amounts appropriated in subsection (g) of this section, the excess net lottery revenues shall be allocated for UNC Need-Based Financial Aid and are appropriated for that purpose.

PART VI. GENERAL PROVISIONS

REMOVE CONSULTATION BY GOVERNOR REQUIREMENT/INTERIM APPROPRIATIONS COMMITTEES

SECTION 6.1. Section 6.5 of S.L. 2011-145 is repealed.

EXTEND REPORTING DATE/UTILIZATION REVIEW/PUBLIC SCHOOL AND PUBLIC HEALTH NURSES

SECTION 6.2. Section 6.9(b) of S.L. 2011-145 reads as rewritten:

1 "SECTION 6.9.(b) By ~~May~~ December 1, 2012, the Fiscal Research Division shall report
2 to the House and Senate Appropriations Committees."
3

4 VOICE INTEROPERABILITY PLAN FOR EMERGENCY RESPONSE (VIPER) 5 SYSTEM

6 SECTION 6.3.(a) It is the intent of the General Assembly to continue to support
7 development and implementation of the State's Voice Interoperability Plan for Emergency
8 Response (VIPER) system in subsequent fiscal years. However, no State agency, office,
9 commission, or non-State entity shall enter into a new contract or amend any existing contract
10 that would commit or otherwise spend any State funds, as defined in G.S. 143C-1-1(d)(25),
11 during the 2011-2012 fiscal year unless those funds were expressly appropriated by the General
12 Assembly for the State's VIPER system.

13 SECTION 6.3.(b) Notwithstanding any other provision of law to the contrary, any
14 unexpended, unencumbered State funds remaining on June 30, 2012, allotted to or received by
15 the Department of Public Safety (Department) or any unexpended, unencumbered State funds
16 allotted to or received by and remaining in the budgets of the previous agencies that now
17 constitute the Department shall revert to the State's General Fund. For purposes of this section,
18 the term "expenditure" means any purchase, advance, conveyance, deposit, distribution,
19 transfer of funds, loan, payment, gift, pledge, or subscription of money or anything of value
20 whatsoever, and any contract, agreement, promise or other obligation. For purposes of this
21 section, the term "encumbrance" means a financial obligation created by a purchase order,
22 contract, salary commitment, unearned or prepaid collections for services provided by the
23 State, or other legally binding agreement.

24 SECTION 6.3.(c) Effective July 1, 2012, the Department is hereby authorized to
25 commit or spend up to twenty-five million dollars (\$25,000,000) in the 2012-2013 fiscal year to
26 continue development and implementation of the State's VIPER system.

27 SECTION 6.3.(d) The Department of Public Safety shall report to the Joint
28 Legislative Committee on Information Technology and the Joint Legislative Oversight
29 Committee on Justice and Public Safety on a quarterly basis on the progress of the State's
30 VIPER system.
31

32 EXTEND MATURITY DATE/GLOBAL TRANSPARK

33 SECTION 6.4. G.S. 147-69.2(b)(11), as amended by Section 7 of S.L. 2005-144,
34 Section 2 of S.L. 2005-201, Section 28.17 of S.L. 2005-276, Section 27.7 of S.L. 2007-323,
35 Section 25.2 of S.L. 2009-451, Section 6.10(a) of S.L. 2011-145, and Section 4(b) of S.L.
36 2011-340, reads as rewritten:

37 "(b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated
38 in subsection (a) of this section in excess of the amount required to meet the current needs and
39 demands on such funds. The State Treasurer may invest the funds as provided in this
40 subsection. If an investment was authorized by this subsection at the time the investment was
41 made or contractually committed to be made, then none of the percentage or other limitation on
42 investments set forth in this subsection shall be construed to require the State Treasurer to
43 subsequently dispose of the investment or fail to honor any contractual commitments as a result
44 of changes in market values, ratings, or other investment qualifications.
45

- 46 ...
47 (11) With respect to assets of the Escheat Fund, obligations of the North Carolina
48 Global TransPark Authority authorized by G.S. 63A-4(a)(22), not to exceed
49 twenty-five million dollars (\$25,000,000), that have a final maturity not later
50 than October 1, ~~2012~~ 2014. The obligations shall bear interest at the rate set
51 by the State Treasurer. No commitment to purchase obligations may be
52 made pursuant to this subdivision after September 1, 1993, and no
53 obligations may be purchased after September 1, 1994. In the event of a loss
54 to the Escheat Fund by reason of an investment made pursuant to this
55 subdivision, it is the intention of the General Assembly to hold the Escheat
56 Fund harmless from the loss by appropriating to the Escheat Fund funds
57 equivalent to the loss.

58 If any part of the property owned by the North Carolina Global
TransPark Authority now or in the future is divested, proceeds of the

1 divestment shall be used to fulfill any unmet obligations on an investment
2 made pursuant to this subdivision.

3"
4

5 NATIONAL MORTGAGE SETTLEMENT APPROPRIATIONS

6 **SECTION 6.5.(a)** The Consent Judgment in *U.S. v. Bank of America*, Civil Action
7 No. 12-CV-0361, dated April 4, 2012, provides for monetary payments to the State and,
8 therefore, the General Assembly authorizes the expenditure of these State revenues as set forth
9 in subsection (b) of this section.

10 **SECTION 6.5.(b)** Settlement funds received by the State pursuant to the Consent
11 Judgment in *U.S. v. Bank of America*, Civil Action No. 12-CV-0361, dated April 4, 2012, shall
12 be deposited and credited in accordance with the North Carolina Constitution and Chapter
13 143C of the General Statutes and are appropriated for the 2012-2013 fiscal year as follows:

- 14 (1) The sum of four million seven hundred eighty thousand dollars (\$4,780,000)
15 to the Department of Justice, Consumer Protection Division, for financial
16 fraud detection and prevention efforts.
- 17 (2) The sum of six million six hundred ninety thousand dollars (\$6,690,000) to
18 the Administrative Office of the Courts to be administered by the North
19 Carolina Conference of District Attorneys. Funds shall be used for grants
20 and training for prosecutorial offices to expand prosecution of lending and
21 financial crimes.
- 22 (3) The sum of thirty million five hundred twenty thousand dollars
23 (\$30,520,000) to the Housing Finance Agency for housing counselors and
24 other assistance to help distressed homeowners.
- 25 (4) The sum of five million seven hundred forty thousand dollars (\$5,740,000)
26 in civil penalties shall be deposited in the Civil Penalty and Forfeiture Fund.
- 27 (5) The sum of two million eight hundred seventy thousand dollars (\$2,870,000)
28 to the Department of Justice, State Bureau of Investigation, to expand its
29 accounting and financial investigative ability and its expertise to investigate
30 financial and lending crimes.

31 **SECTION 6.5.(c)** No State agency receiving money from the National Mortgage
32 Settlement may make expenditures for purposes not authorized by the General Assembly, nor
33 may a State agency spend an amount totaling more than that appropriated by the General
34 Assembly; however, a State agency may use the funds to offset 2012-2013 fiscal year
35 nonrecurring reductions. Any positions established by State agencies with funds appropriated
36 pursuant to this section shall be temporary or time-limited positions.

37 **SECTION 6.5.(d)** Nothing in this section is intended to be in conflict with the
38 mandatory provisions of the Consent Judgment.
39

40 EXECUTIVE ORDER NO. 115/HURRICANE IRENE DISASTER LOANS

41 **SECTION 6.7.(a)** Notwithstanding Executive Order No. 115, Proclamation of a
42 State of Disaster for Pamlico and Tyrrell Counties, issued on February 21, 2012, or any other
43 law to the contrary, the Counties of Pamlico and Tyrrell, upon proof of flood insurance
44 coverage to the Department of Public Safety, Emergency Management Section, shall not be
45 held liable for that portion of funds borrowed under Executive Order No. 115 to cover damage
46 sustained to their county school buildings and county school structures as a result of Hurricane
47 Irene.

48 **SECTION 6.7.(b)** If Pamlico or Tyrrell County allows the flood insurance
49 coverage required in subsection (a) of this section to lapse at any time, that county shall be
50 liable for the full repayment of funds borrowed under Executive Order No. 115.
51

52 AUTHORIZE CERTAIN MODIFICATIONS OF THE CERTIFIED BUDGET

53 **SECTION 6.9.** Section 6.1(b) of S.L. 2011-145, as amended by Section 5 of S.L.
54 2011-391, reads as rewritten:

55 **"SECTION 6.1.(b)** For the 2011-2013 fiscal biennium, and notwithstanding the provisions
56 of Chapter 143C of the General Statutes or any other provision of law, the certified budget for
57 each State agency shall reflect only the total of all appropriations enacted for each State agency
58 by the General Assembly in this act as modified by this act; therefore, the Director of the

1 Budget shall modify the certified budget only to reflect the following actions and only to the
2 extent that they are authorized by this act:

- 3 (1) The allocation of funds set out in reserves.
- 4 (2) Government reorganizations.
- 5 (3) ~~Funds—~~The allocation of funds authorized by G.S. 116-30.3A and
6 G.S. 116-40.22(c).
- 7 (4) The allocation of funds carried forward from one fiscal year to another.
- 8 (5) Changes required by acts that become law after the effective date of this
9 section, irrespective of whether they are authorized by this act.

10 The Director of the Budget shall set out all other budget modifications in the authorized
11 budget."

12 ESTABLISHING OR INCREASING FEES UNDER THIS ACT

13 **SECTION 6.10.(a)** Notwithstanding G.S. 12-3.1, an agency is not required to
14 consult with the Joint Legislative Commission on Governmental Operations prior to
15 establishing or increasing a fee to the level authorized or anticipated in this act.

16 **SECTION 6.10.(b)** Notwithstanding G.S. 150B-21.1A(a), an agency may adopt an
17 emergency rule in accordance with G.S. 150B-21.1A to establish or increase a fee as authorized
18 by this act if the adoption of a rule would otherwise be required under Article 2A of Chapter
19 150B of the General Statutes.
20

21 CONSULTATION WITH A LEGISLATIVE COMMITTEE

22 **SECTION 6.11.** G.S. 12-3 reads as rewritten:

23 "§ 12-3. Rules for construction of statutes.

24 In the construction of all statutes the following rules shall be observed, unless such
25 construction would be inconsistent with the manifest intent of the General Assembly, or
26 repugnant to the context of the same statute, that is to say:
27

28 ...
29 (15) Requirement to consult with a committee or commission of the General
30 Assembly. – All words purporting to require an individual or other entity to
31 consult with a committee or commission of the General Assembly before
32 taking an action shall be construed to require the entity to do all of the
33 following:

- 34 a. Submit a report of the action under consideration to the chairs and
35 staff of the committee or commission. The report shall include all
36 information required by statute and the rules of that committee or
37 commission. The staff of the committee or commission shall make
38 the report available electronically to the members of the committee
39 or commission and to the public.
- 40 b. Appear at a meeting of the committee or commission at which the
41 matter is heard. Unless another period of time is specified by statute,
42 the requirement to appear is satisfied if the committee or commission
43 does not have a meeting at which the matter is heard within 90 days
44 of receiving the required submission."

45 MEDICAID PROGRAM DISCLOSURES TO THE FISCAL RESEARCH DIVISION

46 **SECTION 6.12.** G.S. 120-32.01 reads as rewritten:

47 "§ 120-32.01. Information to be supplied.

48 (a) Every State department, State agency, or State institution shall furnish the
49 Legislative Services Office and the Research, Fiscal Research, Program Evaluation, and Bill
50 Drafting Divisions any information or records requested by them and access to any facilities
51 and personnel requested by them. Except when accessibility is prohibited by a federal statute,
52 federal regulation, or State statute, every State department, State agency, or State institution
53 shall give the Legislative Services Office and these divisions access to any data base or stored
54 information maintained by computer, telecommunications, or other electronic data processing
55 equipment, whether stored on tape, disk, or otherwise, and regardless of the medium for storage
56 or transmission.
57

58 (b) Notwithstanding subsection (a) of this section, access to the BEACON/HR payroll
59 system by the Research and Bill Drafting Divisions shall only be through the Fiscal Research

1 Division and access to the system by the Program Evaluation Division shall only be through the
2 Division Director and two employees of the Division designated by the Division Director.

3 (c) Consistent with subsection (a) of this section and notwithstanding any other law
4 relating to privacy of personnel records, the Retirement Systems Division of the Department of
5 State Treasurer shall furnish the Fiscal Research Division direct online read-only access to
6 active and retired member information or records maintained by the Retirement Systems
7 Division in online information systems. Direct online read-only access shall not include access
8 to medical records of individual members. Nothing in this subsection shall limit the provisions
9 of subsection (a) of this section.

10 (d) For the purpose of ensuring financial transparency, accountability, and efficient
11 operation of the Medicaid program finances by the Department of Health and Human Services,
12 employees of the Fiscal Research Division designated by the Director of Fiscal Research shall
13 have access to all records related to the Medicaid program. The Department of Health and
14 Human Services shall cooperate fully with the designated employees of the Fiscal Research
15 Division to facilitate (i) the evaluation of all financial and policy components of the Medicaid
16 program, including financial projections, (ii) the evaluation of the budgetary construction and
17 management of the Medicaid program, and (iii) the identification of unusual financial events.
18 The Department shall also provide the Fiscal Research Division with electronic access to any
19 departmental data for assessing or predicting Medicaid financial outcomes, and to any
20 modeling software used for assessing or predicting Medicaid program financial outcomes.
21 Employees of the Department shall not impede, delay, or restrict the provision of information
22 or limit access to any departmental personnel necessary for the Fiscal Research Division to
23 perform its monitoring and analysis of the Medicaid program.

24 Nothing in this subsection shall be construed to grant Fiscal Research Division employees
25 access to medical records of individuals or other information protected under the Health
26 Information Portability and Accountability Act (HIPAA).

27 Nothing in this subsection shall limit the provisions of subsection (a) of this section.

28 (e) The Department of Health and Human Services shall provide its annual financial
29 projection of Medicaid program expenditures and requirements for any future fiscal years to the
30 Chairs of the House Appropriations Committee and to the Chairs of the Senate
31 Appropriations/Base Budget Committee no later than the date the Governor presents budget
32 recommendations in accordance with G.S. 143C-3-5. Prior to providing this projection, the
33 Secretary shall cooperatively engage designated employees of the Fiscal Research Division in
34 ongoing bilateral analytical discussions about historical, current, and unanticipated factors that
35 may impact projected Medicaid program financial outcomes that may affect the formulation of
36 an official departmental annual financial projection.

37 Nothing in this subsection shall limit the provisions of subsection (a) of this section."

38 39 **STATE CONTRACTS SHALL INCLUDE A CLAUSE MAKING THEM SUBJECT TO** 40 **THE AVAILABILITY OF APPROPRIATIONS**

41 **SECTION 6.13.(a)** G.S. 143C-6-8 reads as rewritten:

42 **"§ 143C-6-8. State agencies may incur financial obligations only if authorized by the**
43 **Director of the Budget and subject to the availability of appropriated funds.**

44 (a) Limitation. – Unless otherwise authorized by the Director as provided by law,
45 purchase orders, contracts, salary commitments, and any other financial obligations by State
46 agencies shall be subject to the availability of appropriated funds or available funds that are not
47 State funds as defined in this Chapter. Any employment contract or salary commitment that is
48 paid in whole or in part with State funds shall also be subject to this limitation.

49 (b) Notice. – Any written purchase order, contract, salary commitment, or other
50 financial obligation subject to this section shall include a clause that sets forth the limitation
51 imposed by subsection (a) of this section. Where this section applies but there is no written
52 document to which the limitation may be added, the entity that administers the State funds at
53 issue shall notify the person or entity of the limitation."

54 **SECTION 6.13.(b)** The Office of State Personnel shall adopt a policy
55 implementing the relevant portions of G.S. 143C-6-8, as amended by this section, for State
56 employees.

57 **SECTION 6.13.(c)** This section becomes effective September 1, 2012.
58

MANAGEMENT FLEXIBILITY REDUCTIONS TO ENSURE ADEQUATE FUNDS ARE AVAILABLE TO COVER MEDICAID SHORTFALLS

SECTION 6.14.(a) The General Assembly finds that:

- (1) In recent fiscal years, Medicaid program costs have grown disproportionately more than the remainder of the State budget.
- (2) Addressing large and frequent Medicaid program shortfalls has required the reallocation of funds that could have been used for other purposes.
- (3) To cover an early draw down of Medicaid funds during the 2009-2010 fiscal year, the 2011 General Assembly was required to make an additional one hundred twenty-five million dollars (\$125,000,000) available to the Medicaid program.
- (4) To cover a shortfall in the 2011-2012 Medicaid budget, the 2012 Session of the 2011 General Assembly was required to make an additional two hundred five million five hundred thousand dollars (\$205,500,000) available to the Medicaid program.
- (5) To ensure that adequate funds are available to cover any potential shortfall in the 2012-2013 Medicaid budget, it is necessary to implement management flexibility reductions across State government.

SECTION 6.14.(b) In order to provide adequate funds to cover any potential shortfall in the 2012-2013 Medicaid budget while minimizing the impact on State government services, the Director of the Budget shall ensure that cost savings required through the management flexibility reductions in this act are realized so that at least fifty percent (50%) of the cost savings are realized by December 31, 2012.

PART VI-A. INFORMATION TECHNOLOGY

INFORMATION TECHNOLOGY FUND/AVAILABILITY

SECTION 6A.1. Section 6A.1(a) of S.L. 2011-145 reads as rewritten:

"SECTION 6A.1.(a) The availability used to support appropriations made in this act from the Information Technology Fund established in G.S. 147-33.72H is as follows:

| | FY 2011-2012 | FY 2012-2013 |
|---------------------------------|---------------------|----------------------------|
| Appropriation from General Fund | \$4,458,142 | \$ 6,158,142 |
| Interest | \$ 25,000 | \$ 25,000 |
| IT Fund Balance June 30 | \$ 792,000 | \$ 0794,928 |
| <u>Transfer to General Fund</u> | | <u>\$ (750,000)</u> |
| Total Funds Available | \$5,275,142 | \$ 6,183,142 |
| | | \$ <u>6,228,070</u> |

Appropriations are made from the Information Technology Fund for the 2011-2013 fiscal biennium as follows:

| | FY 2011-2012 | FY 2012-2013 |
|--|---------------------|---|
| Information Technology Operations | | |
| Center for Geographic Information and Analysis | \$ 599,347 | \$599,347 \$461,871 |
| Enterprise Security Risk Management | \$ 864,148 | \$ 864,148 |
| Enterprise Project Management Office | \$1,473,285 | \$ 1,473,285 |
| Architecture and Engineering | \$ 581,986 | \$ 581,986 \$ 851,986 |
| Criminal Justice Information Network | \$ 166,422 | \$166,422 \$178,826 |
| Statewide IT Procurement | \$ 0 | \$ 0 |
| State Web site | \$ 100,000 | \$ 0 <u>\$150,000</u> |
| ITS Overhead Reduction | \$ (91,486) | \$ (91,486) |
| Subtotal Information Technology Operations | \$3,693,702 | \$ 3,593,702 <u>\$ 3,888,630</u> |
| Information Technology Projects | | |
| State Portal | \$ 0 | \$ 0 |
| IT Consolidation | \$ 776,440 | \$784,440 <u>\$534,440</u> |
| Transfer to OSC for E-Forms | \$ 500,000 | \$ 500,000 |
| Subtotal Information Technology Projects | \$1,276,440 | \$1,284,440 <u>\$1,034,440</u> |

| | | | |
|---|--|--------------------|----------------------|
| 1 | Data Integration License Funding Transfer to State | | |
| 2 | Agencies | \$ 200,000 | \$ 1,200,000 |
| 3 | Position Transfer to Office of State | | |
| 4 | Budget and Management | \$ 105,000 | \$ 105,000 |
| 5 | Total | \$5,275,142 | \$6,183,142 |
| 6 | | | \$6,228,070". |

OFFICE OF INFORMATION TECHNOLOGY SERVICES/CENTER FOR GEOGRAPHIC INFORMATION AND ANALYSIS/GIS FUNCTIONS AND COST RECOVERY

SECTION 6A.2. G.S. 147-33.82(a) is amended by adding a new subdivision to read:

"(a) In addition to any other functions required by this Article, the Office of Information Technology Services shall:

- ...
 - (10) Provide geographic information systems services through the Center for Geographic Information and Analysis on a cost recovery basis. The Office of Information Technology Services and the Center for Geographic Information and Analysis may contract for funding from federal or other sources to conduct or provide geographic information systems services for public purposes."

TAX INFORMATION MANAGEMENT SYSTEM/ADDITIONAL PUBLIC-PRIVATE PARTNERSHIP AUTHORIZED

SECTION 6A.3.(a) Additional Public-Private Partnership. – The Secretary of Revenue may enter into an additional public-private arrangement in order to expand the implementation of the Tax Information Management System (TIMS). All such arrangements will terminate June 30, 2018. The public-private arrangement may include terms necessary to implement additional revenue-increasing or cost-savings components if all of the following conditions are met:

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

SECTION 6A.3.(b) Contracts. – Work under an additional public-private arrangement that is authorized by this section may be contracted by requests for proposals, modifications to the existing contracts, purchases using existing contracts, or other related contract vehicles.

SECTION 6A.3.(c) Management/Performance Measurement. – The Secretary of Revenue shall follow the existing model for public-private arrangement oversight and shall establish a measurement process to determine the increased revenue or cost savings attributed to the additional public-private arrangement authorized by this section. To accomplish this, the Secretary shall consult subject matter experts in the Department of Revenue, in other governmental units, and in the private sector, as necessary. At a minimum, the measurement process shall include all of the following:

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

SECTION 6A.3.(d) Funding. – Of funds generated from increased revenues or cost savings as compared to the baselines established by subdivision (1) of subsection (c) of this section, in the General Fund, the Highway Fund, and that State portion of the Unauthorized Substance Tax collections of the Special Revenue Fund, the sum of up to a total of sixteen million dollars (\$16,000,000) may be used by the Office of State Budget and

1 Management to make purchases related to the implementation of the additional public-private
2 arrangement authorized by this section, including payment for services from non-State entities.

3 **SECTION 6A.3.(e)** Internal Costs. – For the 2012-2013 fiscal year, in addition to
4 the funding authorized in subsection (d) of this section and Section 6A.5(a) of S.L. 2011-145,
5 the Department of Revenue may retain both of the following:

- 6 (1) An additional sum of ten million two hundred twenty-eight thousand dollars
7 (\$10,228,000) from benefits generated for the General Fund since the
8 beginning of the public-private partnership described under Section 6A.5(a)
9 of S.L. 2011-145. These funds shall be used as payment of internal costs for
10 the fiscal biennium, and such funds are hereby appropriated for this purpose.
- 11 (2) An additional sum of six million dollars (\$6,000,000) from benefits
12 generated for the General Fund since the beginning of the public-private
13 partnership described under Section 6A.5(a) of S.L. 2011-145. These funds
14 shall be used to support internal costs and any new resources necessary to
15 provide additional electronic services, to include payments and returns. Any
16 requirements for electronic forms and digital signatures resulting from the
17 electronic services expansion shall be coordinated with the Office of the
18 State Controller.

19 **SECTION 6A.3.(f)** Expert Counsel Required. – Notwithstanding G.S. 114-2.3, the
20 Department of Revenue shall engage the services of private counsel with the pertinent
21 information technology and computer law expertise to negotiate and review contracts
22 associated with an additional public-private arrangement authorized under this section.

23 **SECTION 6A.3.(g)** Oversight Committee. – The Oversight Committee established
24 under Section 6A.5(c) of S.L. 2011-145 shall have the same responsibilities and duties with
25 respect to an additional public-private arrangement authorized by this section as it does with
26 respect to public-private arrangements to implement TIMS and the additional PDP components.

27 **SECTION 6A.3.(h)** Reporting. – Beginning August 1, 2012, and quarterly
28 thereafter, the Department of Revenue shall submit detailed written reports to the Chairs of the
29 House of Representatives and Senate Committees on Appropriations, to the Joint Legislative
30 Oversight Committee on Information Technology, and to the Fiscal Research Division of the
31 General Assembly. The report shall include an explanation of all of the following:

- 32 (1) Details of each public-private contract.
- 33 (2) The benefits from each contract.
- 34 (3) A comprehensive forecast of the benefits of using public-private agreements
35 to implement TIMS, the additional PDP components, and additional
36 components authorized by this section, including cost savings and the
37 acceleration of the project timeline.
- 38 (4) Any issues associated with the operation of the public-private partnership.

39 **SECTION 6A.3.(i)** Information Technology Project Oversight. – In addition to the
40 oversight provided by the Oversight Committee established in Section 6A.5(c) of S.L.
41 2011-145, the additional public-private arrangement authorized by this section shall be subject
42 to existing State information technology project oversight laws and statutes, and the project
43 management shall comply with all statutory requirements and other criteria established by the
44 State Chief Information Officer and the Office of State Budget and Management for
45 information technology projects. The State Chief Information Officer and the Office of State
46 Budget and Management shall immediately report any failure to do so to the Joint Legislative
47 Oversight Committee on Information Technology, the Chairs of the House of Representatives
48 and Senate Committees on Appropriations, and the Fiscal Research Division.

49 **SECTION 6A.3.(j)** Extension. – Section 6A.5(c) of S.L. 2011-145 reads as
50 rewritten:

51 **"SECTION 6A.5.(c)** There is established within the Department of Revenue the Oversight
52 Committee for reviewing and approving the benefits measurement methodology and
53 calculation process. The Oversight Committee shall review and approve in writing all contracts,
54 including change orders, amendments to contracts, and addendums to contracts, before they are
55 executed under this section. This shall include (i) details of each public-private contract, (ii) the
56 benefits from each contract, and (iii) a comprehensive forecast of the benefits of using
57 public-private agreements to implement TIMS and the additional PDP components, including
58 the measurement process established for the Secretary of Revenue. The Oversight Committee
59 shall approve all of the fund transfers for this project. Within five days of entering into a

1 contract, the Department shall provide copies of each contract and all associated information to
 2 the Joint Legislative Oversight Committee on Information Technology, the Chairs of the House
 3 of Representatives and Senate Committees on Appropriations, and the Fiscal Research
 4 Division.

5 The members of the Committee shall include the following:

- 6 (1) The State Budget Director;
- 7 (2) The Secretary of the Department of Revenue;
- 8 (3) The State Chief Information Officer;
- 9 (4) Two persons appointed by the Governor;
- 10 (5) One member of the general public having expertise in information
 11 technology appointed by the General Assembly upon the recommendation of
 12 the Speaker of the House of Representatives; and
- 13 (6) One member of the general public having expertise in economic and revenue
 14 forecasting appointed by the General Assembly upon recommendation of the
 15 President Pro Tempore of the Senate.

16 The State Budget Director shall serve as chair of the Committee. The Committee shall set
 17 its meeting schedule and adopt its rules of operation by majority vote. A majority of the
 18 members constitutes a quorum. Vacancies shall be filled by the appointing authority.
 19 Administrative support staff shall be provided by the Department of Revenue. Members of the
 20 Committee shall receive reimbursements for subsistence and travel expenses as provided by
 21 Chapter 138 of the General Statutes. The Committee shall terminate on ~~June 30, 2015~~ June 30,
 22 2018.

23 The Department shall provide copies of the minutes of each meeting and all associated
 24 information to the Joint Legislative Oversight Committee on Information Technology, the
 25 Chairs of the House of Representatives and Senate Committees on Appropriations, and the
 26 Fiscal Research Division."

27 **SECTION 6A.3.(k) One-Time Payment.** – To accelerate the implementation of the
 28 Tax Information Management System, including any additional components authorized by
 29 subsection (a) of this section, the Office of State Budget and Management may authorize the
 30 Secretary of Revenue to make a one-time payment of two million dollars (\$2,000,000) to the
 31 vendor of TIMS for implementation of TIMS if all of the conditions of this section are
 32 satisfied. The one-time payment shall be paid within 90 days of satisfaction of all conditions of
 33 this section or when sufficient funds are available, whichever is later. The source of funds for
 34 this payment is the same increased-revenue and cost-savings streams identified under
 35 subsection (a) of this section. The payment authorized by this subsection is in addition to the
 36 payments authorized by subsection (a) of this section. The mandatory conditions of this
 37 subsection are as follows:

- 38 (1) Release 5 of the Enterprise Technology Management (ETM) project is
 39 initially implemented on or before July 31, 2013.
- 40 (2) The post-implementation defect rate for Release 5 of the ETM project is
 41 within standards agreed to by the Secretary and the vendor. For purposes of
 42 this section, the post-implementation period is the period from the date of
 43 initial implementation until 90 days after initial implementation.
- 44 (3) All defects identified as part of Release 5 of the ETM project before the end
 45 of the post-implementation period are resolved within time frames agreed to
 46 by the Secretary and the vendor.

47
 48 **INFORMATION TECHNOLOGY PERSONAL SERVICES**
 49 **CONTRACTS/REPORTING CHANGE**

50 **SECTION 6A.4.** Section 6A.6(c) of S.L. 2011-145 reads as rewritten:

51 "**SECTION 6A.6.(c)** Beginning ~~August 1, 2011, August 1, 2012, and monthly~~ quarterly
 52 thereafter, each State agency, department, and institution employing information technology
 53 personal services contractors, or contract personnel performing information technology
 54 functions, shall provide a detailed report on those contracts to the Office of State Budget and
 55 Management, the Office of State Personnel, the Office of Information Technology Services, the
 56 Joint Legislative Oversight Committee on Information Technology, and the Fiscal Research
 57 Division of the General Assembly. Each State agency's report shall include at least the
 58 following:

- 59 (1) For each contracted information technology position:

- a. The title of the position, a brief synopsis of the essential functions of the position, and how long the position has existed.
 - b. The name of the individual filling the position and the vendor company, if any, that regularly employs that individual.
 - c. The type of contract, start date, and termination date.
 - d. The length of time that the individual filling the contracted position has been employed by the State as a contractor in any position.
 - e. The contracted position salary or hourly rate, the number of hours per year, and the total annualized cost of the contracted position.
 - f. The salary and benefits cost for a State employee performing the same function.
 - g. The purchase order number for the position.
 - h. Whether the position can be converted to a State employee position. This determination will be certified by the State Information Technology Purchasing Office.
 - i. When the agency anticipates converting the position to a State employee.
- (2) The total annual cost for information technology contractors and the total annual salary and benefits cost for filling the contract positions with State employees.
 - (3) A determination of whether the information technology functions performed by the contractor can be performed by State employees.
 - (4) All information required by this subsection related to information technology contractors regardless of the contracting source."

OFFICE OF INFORMATION TECHNOLOGY SERVICES/INTERNAL SERVICE FUND RATE ESTABLISHED/CASH MANAGEMENT

SECTION 6A.5.(a) Section 6A.8(a) of S.L. 2011-145 reads as rewritten:

"ITS/INTERNAL SERVICE FUND RATE ESTABLISHMENT/CASH MANAGEMENT

"SECTION 6A.8.(a) For each year of the 2011-2013 fiscal biennium, the 2011-2012 fiscal year, receipts for the Information Technology Internal Service Fund shall not exceed one hundred ninety million dollars (\$190,000,000), excluding a 60-day 40-day balance for contingencies. Notwithstanding G.S. 147-33.88, for the 2012-2013 fiscal year, all receipts, regardless of the source, including agency allocations and fund-to-fund transfers, for the Information Technology Internal Service shall not exceed one hundred seventy-five million dollars (\$175,000,000). Rates established by the Office of State Budget and Management (OSBM) to support the IT Internal Service Fund shall be based on this the required fund limit. Established rates shall be adjusted within 30 days in the event the fund exceeds the prescribed limit. In the event that an increase in receipts for the IT Internal Service Fund is required, the Office of Information Technology Services State Chief Information Officer may implement the increase only after consultation with the Joint Legislative Commission on Governmental Operations. Overhead applied to IT Internal Service Fund rates shall not exceed ten percent (10%) of the rate."

SECTION 6A.5.(b) Section 6A.8 of S.L. 2011-145 is amended by adding a new subsection to read:

"SECTION 6A.8.(a1) The 40-day balance for contingencies shall be based on the maximum receipts permitted for each fiscal year, and any balance in excess of the limit must be refunded within 30 days of the first day when the fund balance exceeded the limitation amount. The Office of Information Technology Services shall limit collections each quarter to an amount not to exceed twenty-five percent (25%) of the year's limit. For the 2012-2013 fiscal year, a 40-day balance shall be maintained."

SECTION 6A.5.(c) The State Chief Information Officer shall consult with the Joint Legislative Commission on Governmental Operations prior to:

- (1) Eliminating any services currently provided by the Office of Information Technology Services or the State Chief Information Officer.
- (2) Transferring positions currently funded by the Information Technology Fund to the IT Internal Service Fund.

SECTION 6A.5.(d) Agency IT Expenses Cannot Exceed Appropriations. – During the 2012-2013 fiscal year, no State agency shall be charged more for information technology

1 services provided by the Office of the State Chief Information Officer or the Office of
2 Information Technology Services than the lower of the amount charged or the amount actually
3 paid less refunds from available appropriations for the 2011-2012 fiscal year, unless the
4 increase is agreed to in writing by the agency and the Office of the State Chief Information
5 Officer.

6 **SECTION 6A.5.(e)** Limitation on Charges for Alternate Services. – In the event
7 that the State Chief Information Officer discontinues or privatizes a service during the
8 2012-2013 fiscal year, if the agencies choose to use an alternate service provided by the Office
9 of Information Technology Services or their vendor, the amount that State agencies are charged
10 for alternate services, inclusive of any service charge the State Chief Information Officer adds
11 to the vendor charge, shall not exceed the IT Internal Service Fund charges for the same service
12 in effect on May 31, 2012.

13 **SECTION 6A.5.(f)** The State Chief Information Officer shall report on a monthly
14 basis to the Chairs of the House of Representatives and Senate Committees on Appropriations,
15 to the Joint Legislative Oversight Committee on Information Technology, and to the Fiscal
16 Research Division of the General Assembly. The reports required by this section shall include:

- 17 (1) How close the receipts of the Information Technology Internal Service are to
18 the limits set forth in Section 6A.8(a) of S.L. 2011-145.
- 19 (2) The rates established by the Office of State Budget and Management
20 (OSBM) to support the IT Internal Service Fund.
- 21 (3) The amount charged to date to each State agency for services provided by
22 the Office of the State Chief Information Officer or the Office of
23 Information Technology Services during the 2012-2013 fiscal year.
- 24 (4) The amount that State agencies are charged for alternate services in the event
25 that a service is discontinued or privatized during the 2012-2013 fiscal year,
26 inclusive of any service charge the State Chief Information Officer adds to
27 the vendor charge.

28 INFORMATION TECHNOLOGY PRIVATIZATION

29 **SECTION 6A.6.(a)** Section 6A.9 of S.L. 2011-145 reads as rewritten:

30 **"SECTION 6A.9.(a)** Any privatization of any grouping of information technology
31 services, or "towers," identified in the Infrastructure Study and Assessment (INSA) or any
32 privatization to provide a new service or privatize an existing service shall require prior
33 approval from the General Assembly. Funding to support any outsourcing of any of these
34 towers or any privatization involving a new or existing service shall be specifically
35 appropriated by the General Assembly for that purpose, to include any use of Information
36 Technology Internal Service Fund receipts. No new privatization shall occur until the Office of
37 the State Chief Information Officer and the Office of Information Technology Services
38 accomplish the following:

- 39 (1) The establishment and presentation to the Joint Legislative Oversight
40 Committee on Information Technology of a budget for the Information
41 Technology Internal Service Fund with rates for services that accurately
42 reflect costs.
- 43 (2) The development and implementation of an accurate, comprehensive asset
44 management system for executive branch agencies and report to the Joint
45 Legislative Oversight Committee on Information Technology the results of
46 the implementation.
- 47 (3) Issuance of a new request for proposal to solicit bids for any privatization
48 initiative.
- 49 (4) Consultation with and approval from the State Treasurer.

50 **"SECTION 6A.9.(a1)** The limitations set forth in this section shall apply to the IT
51 Services Management Services Desk (Help Desk), the Application Development and Support
52 Services (Hosting Services), and the video portfolio and to any other IT service privatization.

53 **"SECTION 6A.9.(b)** Before privatizing any major information technology function new or
54 existing information technology service during the 2011-2013 fiscal biennium, the State Chief
55 Information Officer shall do all of the following:

- 56 (1) Develop a detailed plan for implementing any privatization initiative to
57 include the following:
 - 58 a. A governance and accountability structure for the privatization effort.

- b. Detailed time line with milestones.
- c. Any costs necessary to accomplish outsourcing with funding sources identified.
- d. Estimated monthly cost for each participating agency for the first five years of privatization.
- e. Risks associated with privatization, measures being taken to mitigate those risks, and any costs associated with the mitigation measures.
- f. Any security issues associated with outsourcing each application impacted by the outsourcing, with a detailed plan to mitigate those issues.
- g. A list of State employees to be terminated with information on their job description and how long they have been employed by the State, a schedule of when the terminations are to occur, the cost of terminating each employee, and plans to assist each terminated employee.

The State Chief Information Officer shall consult the Joint Legislative Commission on Governmental Operations and report to the Joint Legislative Oversight Committee on Information Technology on the completed plan prior to any implementation of privatization.

- (2) Have a detailed plan in place, to include associated costs and sources of funding, to return the function to State control in the event privatization fails to provide anticipated cost-savings or required service levels.
- (3) Privatize only those individual functions where verifiable market data collected after January 1, 2012, by a disinterested third-party consultant shows that privatization will result in cost-savings to the State and there is no data identifying alternatives that generate greater savings, ensuring that agencies receive at a minimum the same level of service and functionality as the level prior to privatization.
- (4) Document and certify any anticipated savings resulting from privatization by individual function.
- (5) Ensure full disclosure of any privatization decisions that combine multiple services or towers into a single contract, including the costs associated with each specific service or tower included in the contract.
- (6) Ensure that any changes are made across the entire executive branch.
- (7) Consult the Joint Legislative Commission on Governmental Operations and report to the Joint Legislative Oversight Committee on Information Technology regarding the plan for funding any requirements formerly covered by the receipts from the privatized function.

"SECTION 6A.9.(b1) Agency Participation in Privatization Initiatives Is Voluntary. – Notwithstanding any other provision of law, if a State-administered information technology service is privatized, or a new service is provided through a private vendor, continued receipt of or participation in the service by State agencies shall be voluntary.

"SECTION 6A.9.(b2) Agency Options in the Event of Privatization. – If a State-administered information technology service is privatized, or a new privatized service is offered, State agencies may do any of the following:

- (1) Elect to discontinue receiving or participating in the service and to provide the service within the agency. If an agency elects to provide the service internally, any positions previously transferred to the Office of Information Technology Services to support the service shall be transferred back to that agency. The Office of the State Chief Information Officer and the Office of Information Technology Services shall provide necessary support to facilitate the transfers of positions.
- (2) Submit their own requests for proposal and contract with a vendor to provide the privatized service.
- (3) Enter into agreements with other agencies to independently obtain information technology services that have been privatized, either by participating in the other agency's current service or by executing contracts for services.
- (4) Elect to receive or participate in a new or newly privatized service.

1 "SECTION 6A.9.(b3) Council of State Approval Required. – Notwithstanding any other
2 provision of law, both requests for proposal and contracts privatizing State-administered
3 information technology services must be approved by the Council of State.

4 "SECTION 6A.9.(c) After privatizing any major information technology function, the
5 State Chief Information Officer shall do all of the following:

- 6 (1) Report quarterly on the results of the privatization, including a detailed
7 comparison of projected savings to actual cost, data on whether or not the
8 vendor is meeting service level agreements, and an explanation of the
9 reasons for any deficiency or difference.
- 10 (2) Immediately notify the Joint Legislative Commission on Governmental
11 Operations of any outsourcing effort that does not meet projected savings or
12 required service levels for two quarters in a row or during any two quarters
13 of a fiscal year, and develop a corrective action plan.
- 14 (3) Terminate any contract where privatization fails to achieve projected savings
15 or meet service levels over a period of 12 months.

16 "SECTION 6A.9.(d) Reporting. – The State Chief Information Officer shall consult with
17 the Joint Legislative Commission on Governmental Operations prior to issuing a request for
18 proposal to privatize any State-administered information technology service.

19 "SECTION 6A.9.(e) Access by Private Vendors. – If the State Chief Information Officer
20 provides to a potential vendor any information or access to State facilities in connection with or
21 anticipation of the privatization of a State-administered information technology service, the
22 State Chief Information Officer shall provide the same information or access to all potential
23 vendors. The State Chief Information Officer shall certify the Officer's compliance with this
24 subsection to the General Assembly."

25 **SECTION 6A.6.(b)** This section applies to all contracts entered into prior to
26 February 1, 2013.

27 **SECTION 6A.6.(c)** This section expires February 1, 2013.
28

29 **MOBILE ELECTRONIC DEVICE REPORTING CHANGE**

30 **SECTION 6A.7.** Section 6A.14(a) of S.L. 2011-145, as amended by Section 11(f)
31 of S.L. 2011-391, reads as rewritten:

32 **"SECTION 6A.14.(a)** Every executive branch agency within State government shall
33 develop a policy to limit the issuance and use of mobile electronic devices to the minimum
34 required to carry out the agency's mission. As used herein, mobile communication device
35 includes goods provided by commercial mobile radio service providers and services for mobile
36 telecommunications governed by Title 47 of the Code of Federal Regulations. By September 1,
37 2011, each agency shall provide a copy of its policy to the Chairs of the Appropriations
38 Committee and the Appropriations Subcommittee on General Government of the House of
39 Representatives, the Chairs of the Appropriations/Base Budget Committee and the
40 Appropriations Committee on General Government and Information Technology of the Senate,
41 the Chairs of the Joint Legislative Oversight Committee on Information Technology, the Fiscal
42 Research Division, and the Office of State Budget and Management.

43 State-issued mobile electronic devices shall be used only for State business. Agencies shall
44 limit the issuance of cell phones, smart phones, and any other mobile electronic devices to
45 employees for whom access to a mobile electronic device is a critical requirement for job
46 performance. The device issued and the plan selected shall be the minimum required to support
47 the employees' work requirements. This shall include considering the use of pagers in lieu of a
48 more sophisticated device. The requirement for each mobile electronic device issued shall be
49 documented in a written justification that shall be maintained by the agency and reviewed
50 annually. All State agency heads, in consultation with the Office of Information Technology
51 Services and the Office of State Budget and Management, shall document and review all
52 authorized cell phone, smart phone, and other mobile electronic communications device
53 procurement, and related phone, data, Internet, and other usage plans for and by their
54 employees. Agencies shall conduct periodic audits of mobile device usage to ensure that State
55 employees and contractors are complying with agency policies and State requirements for their
56 use.

57 ~~Beginning October 1, 2011, October 1, 2012, each agency shall report quarterly~~ annually to
58 the Chairs of the House of Representatives Committee on Appropriations and the House of
59 Representatives Subcommittee on General Government, the Chairs of the Senate Committee on

1 Appropriations and the Senate Appropriations Committee on General Government and
2 Information Technology, the Joint Legislative Oversight Committee on Information
3 Technology, the Fiscal Research Division, and the Office of State Budget and Management on
4 the following:

- 5 (1) Any changes to agency policies on the use of mobile devices.
- 6 (2) The number and types of new devices issued since the last report.
- 7 (3) The total number of mobile devices issued by the agency.
- 8 (4) The total cost of mobile devices issued by the agency.
- 9 (5) The number of each type of mobile device issued, with the total cost for each
10 type."

11
12 **ENHANCE ENTERPRISE-LEVEL BUSINESS INTELLIGENCE TO INCREASE**
13 **EFFICIENCY IN STATE GOVERNMENT**

14 **SECTION 6A.7A.(a)** Creation of Initiative. –

- 15 (1) Creation. – The enterprise-level business intelligence initiative (initiative) is
16 established in the Office of State Controller. The purpose of the initiative is
17 to support the effective and efficient development of State agency business
18 intelligence capability in a coordinated manner and reduce unnecessary
19 information silos and technological barriers. The initiative is not intended to
20 replace transactional systems, but is instead intended to leverage the data
21 from those systems for enterprise-level State business intelligence.

22 The initiative shall include a comprehensive evaluation of existing data
23 analytics projects and plans in order to identify data integration and business
24 intelligence opportunities that will generate greater efficiencies in, and
25 improved service delivery by, State agencies. The Office of State Controller
26 may partner with current vendors and providers to assist in the initiative.
27 However, to limit the cost to the State, the Office of the State Controller
28 shall use current licensing agreements wherever feasible.

- 29 (2) Application to State government. – The initiative shall include all State
30 agencies, departments, and institutions, including The University of North
31 Carolina.
- 32 (3) Governance. – The State Controller shall lead the initiative established
33 pursuant to this section. The Chief Justice of the North Carolina Supreme
34 Court and the Legislative Services Commission each shall designate an
35 officer or agency to advise and assist the State Controller with respect to
36 implementation of the initiative in their respective branches of government.
37 The judicial and legislative branches shall fully cooperate in the initiative
38 mandated by this section in the same manner as is required of State agencies.

39 **SECTION 6A.7A.(b)** Government Business Intelligence Competency Center. –

- 40 (1) GBICC established. – There is established in the Office of the State
41 Controller the Government Business Intelligence Competency Center
42 (GBICC). GBICC shall assume the work, purpose, and resources of the
43 current data integration effort in the Office of the State Controller and shall
44 otherwise advise and assist the State Controller in the management of the
45 initiative. The State Controller shall make any organizational changes
46 necessary to maximize the effectiveness and efficiency of GBICC.
- 47 (2) Powers and duties of the GBICC. – The State Controller shall, through the
48 GBICC, do all of the following:
 - 49 a. Continue and coordinate ongoing enterprise data integration efforts,
50 including:
 - 51 1. The deployment, support, technology improvements, and
52 expansion for CJLEADS.
 - 53 2. The pilot and subsequent phase initiative for NC FACTS.
 - 54 3. Individual-level student data and workforce data from all
55 levels of education and the State workforce.
 - 56 4. Other capabilities developed as part of the initiative.
 - 57 b. Identify technologies currently used in North Carolina that have the
58 capability to support the initiative.

- c. Identify other technologies, especially those with unique capabilities, that could support the State's business intelligence effort.
- d. Compare capabilities and costs across State agencies.
- e. Ensure implementation is properly supported across State agencies.
- f. Ensure that data integration and sharing is performed in a manner that preserves data privacy and security in transferring, storing, and accessing data, as appropriate.
- g. Immediately seek any waivers and enter into any written agreements that may be required by State or federal law to effectuate data sharing and to carry out the purposes of this section.
- h. Coordinate data requirements and usage for State business intelligence applications in a manner that (i) limits impacts on participating State agencies as those agencies provide data and business knowledge expertise and (ii) assists in defining business rules so the data can be properly used.
- i. Recommend the most cost-effective and reliable long-term hosting solution for enterprise-level State business intelligence as well as data integration, notwithstanding Section 6A.2(f) of S.L. 2011-145.

SECTION 6A.7A.(c) Implementation of the Enterprise-Level Business Intelligence Initiative. –

(1) Phases of the initiative. – The initiative shall commence no later than August 1, 2012, and shall be phased in accordance with this subsection. The initiative shall cycle through these phases on an ongoing basis:

- a. Phase I requirements. – In the first phase, the State Controller through GBICC shall:
 1. Inventory existing State agency business intelligence projects, both completed and under development.
 2. Develop a plan of action that does all of the following:
 - I. Defines the program requirements, objectives, and end state of the initiative.
 - II. Prioritizes projects and stages of implementation in a detailed plan and benchmarked timeline.
 - III. Includes the effective coordination of all of the State's current data integration initiatives.
 - IV. Utilizes a common approach that establishes standards for business intelligence initiatives for all State agencies and prevents the development of projects that do not meet the established standards.
 - V. Determines costs associated with the development effort and identifies potential sources of funding.
 - VI. Includes a privacy framework for business intelligence consisting of adequate access controls and end user security requirements.
 - VII. Estimates expected savings.
 3. Inventory existing external data sources that are purchased by State agencies to determine whether consolidation of licenses is appropriate for the enterprise.
 4. Determine whether current, ongoing projects support the enterprise-level objectives.
 5. Determine whether current applications are scalable, or are applicable for multiple State agencies, or both.
- b. Phase II requirements. – In the second phase, the State Controller through the GBICC shall:
 1. Identify redundancies and determine which projects should be discontinued.
 2. Determine where gaps exist in current or potential capabilities.
- c. Phase III requirements. – In the third phase:

1. The State Controller through GBICC shall incorporate or consolidate existing projects, as appropriate.
 2. The State Controller shall, notwithstanding G.S. 147-33.76 or any rules adopted pursuant thereto, eliminate redundant business intelligence projects, applications, software, and licensing.
 3. The State Controller through GBICC shall complete all necessary steps to ensure data integration in a manner that adequately protects privacy.
- (2) Commencement of projects. – Subject to the availability of funds, and subsequent to the submission of the written report required by sub-subdivision a. of subdivision (1) of subsection (e) of this section, the State Controller shall begin projects to carry out the purposes of this section no later than November 1, 2012. The State Controller may also expand existing data integration or business intelligence contracts with current data integration efforts, as appropriate, in order to implement the plan required by this section in accordance with the schedule established and the priorities developed during Phase I of the initiative, and may use public-private partnerships as appropriate to implement the plan.

SECTION 6A.7A.(d) Funding. –

- (1) Allocation. – Of the funds appropriated from the General Fund to the General Assembly for the 2011-2013 fiscal biennium, the sum of five million dollars (\$5,000,000) shall be used to fund the initiative established by this section. The Office of the State Controller shall use up to seven hundred fifty thousand dollars (\$750,000) to cover the cost of administering the initiative.
- (2) Federal funds. – The Office of State Controller, with the support of the Office of State Budget and Management, shall identify and make all efforts to secure any matching funds or other resources to assist in funding this initiative.
- (3) Use of savings. – Savings resulting from the cancellation of projects, software, and licensing, as well as any other savings from the initiative, shall be returned to the General Fund and shall remain unexpended and unencumbered until appropriated by the General Assembly in a subsequent fiscal year. It is the intent of the General Assembly that expansion of the initiative in subsequent fiscal years be funded with these savings and that the General Assembly appropriate funds for projects in accordance with the priorities identified by the Office of the State Controller in Phase I of the initiative.

SECTION 6A.7A.(e) Reporting. –

- (1) Routine reports. – The Office of the State Controller shall submit and present the following reports:
 - a. By no later than October 1, 2012, a written report on the implementation of Phase I of the initiative and the plan developed as part of that phase to the Chairs of the House of Representatives Appropriations and Senate Base Budget/Appropriations Committees, to the Joint Legislative Oversight Committee on Information Technology, and to the Fiscal Research Division of the General Assembly. The State Controller shall submit this report prior to implementing any improvements, expending funding for expansion of existing business intelligence efforts, or establishing other projects as a result of its evaluations.
 - b. By February 1, 2013, and quarterly thereafter, a written report detailing progress on, and identifying any issues associated with, State business intelligence efforts.
- (2) Extraordinary reports. – The Office of the State Controller shall report the following information as needed:
 - a. Any failure of a State agency to provide information requested pursuant to this section. The failure shall be reported to the Joint

1 Legislative Committee on Information Technology and to the Chairs
2 of the House of Representatives Appropriations and Senate Base
3 Budget/Appropriations Committees.

- 4 b. Any additional information to the Joint Legislative Commission on
5 Governmental Operations and the Joint Legislative Oversight
6 Committee on Information Technology that is requested by those
7 entities.

8 **SECTION 6A.7A.(f) Duties of State Agencies. –**

- 9 (1) Duties of State agencies. – The head of each State agency shall do all of the
10 following:

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

39 **SECTION 6A.7A.(g) Miscellaneous Provisions. –**

- 40 (1) Status with respect to certain information. – The State Controller and the
41 GBICC shall be deemed to be all of the following for the purposes of this
42 section:

- 43 a. With respect to criminal information, and to the extent allowed by
44 federal law, a criminal justice agency (CJA), as defined under
45 Criminal Justice Information Services (CJIS) Security Policy. The
46 State CJIS Systems Agency (CSA) shall ensure that CJLEADS
47 receives access to federal criminal information deemed to be
48 essential in managing CJLEADS to support criminal justice
49 professionals.
- 50 b. With respect to health information covered under the Health
51 Insurance Portability and Accountability Act of 1996 (HIPAA), as
52 amended, and to the extent allowed by federal law:
- 53 1. A business associate with access to protected health
54 information acting on behalf of the State's covered entities in
55 support of data integration, analysis, and business
56 intelligence.
- 57 2. Authorized to access and view individually identifiable health
58 information, provided that the access is essential to the
59 enterprise fraud, waste, and improper payment detection

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

35 **SECTION 6A.7A.(h)** G.S. 75-66(d) reads as rewritten:

- 36 "(d) Nothing in this section shall:
 37 (1) Limit the requirements or obligations under any other section of this Article,
 38 including, but not limited to, G.S. 75-62 and G.S. 75-65.
 39 (2) Apply to the collection, use, or release of personal information for a purpose
 40 permitted, authorized, or required by any federal, State, or local law,
 41 regulation, or ordinance.
 42 (3) Apply to data integration efforts to implement the State's business
 43 intelligence strategy as provided by law or under contract."
 44

45 **STATE PRIVATE CLOUD**

46 **SECTION 6A.9.(a)** Findings. – The General Assembly finds that:

- 47 (1) The wide distribution of information technology facilities across multiple
 48 locations causes infrastructure and operational inefficiencies.
 49 (2) Infrastructure as a service, also known as cloud computing, has the potential
 50 to increase efficiency and enhance operations by reducing information
 51 technology costs and accelerating the provision of services.
 52 (3) The creation of a secure and flexible State private cloud is in the best interest
 53 of the people of this State.

54 **SECTION 6A.9.(b)** Plan Required. – The State Chief Information Officer shall
 55 create a plan for the development and implementation of a State-owned, State-hosted
 56 infrastructure as a service, or private cloud, project to be operated and managed by the State.

57 **SECTION 6A.9.(c)** Components of the Plan. – The State private cloud plan created
 58 pursuant to this section shall include:

- 59 (1) Requirements for:

- 1 a. The State to have complete control and ownership of all components
 2 of the private cloud, including hardware, software, network
 3 infrastructure, security, and data.
 4 b. All components of the private cloud to be maintained at State-owned,
 5 State-operated facilities.
 6 c. The private cloud to fully comply with all legislative, regulatory,
 7 policy, and security requirements that apply to State agencies and
 8 entities conducting business with the State.
 9 d. The State's existing information technology infrastructure to be used
 10 to support the private cloud.
 11 e. Documentation of any redundancy built into the infrastructure to
 12 support requirements for increased availability and disaster recovery.
 13 f. A service-centric approach to computing resources. Users of
 14 computing resources shall be able to efficiently access powerful,
 15 predefined computing environments based on their requirements.
 16 g. A self-service ability to provision and deprovision, as requested by
 17 users, while maintaining high levels of security.
 18 h. A fully functional, efficient, fair system to bill State agencies for
 19 private cloud usage. This requirement includes mechanisms to
 20 capture usage data and enable chargeback integration within the
 21 billing system.
 22 i. A plan to manage infrastructure resources that can be scaled in
 23 response to State agency requirements.
 24 j. An inventory of all potential resources, both public and private,
 25 available to support the development, implementation, operation, and
 26 management of the private cloud, and the costs and benefits
 27 associated with each.
- 28 (2) A detailed timeline, documentation of agency requirements, identification
 29 and resolution of security issues, and an assessment of the impact on any
 30 ongoing projects or current applications.
 31 (3) Identification of costs associated with developing the private cloud.
 32 (4) Identification and documentation of private cloud management and
 33 monitoring tools to facilitate the maintenance of complete control of private
 34 cloud resources; automate provisioning, deprovisioning, and scheduling; and
 35 maintain system capacity.
 36 (5) Identification of ways to improve the private cloud's supporting
 37 infrastructure.
 38 (6) Identification of potential sources of savings to support development,
 39 implementation, and maintenance of the State private cloud.

40 **SECTION 6A.9.(d)** Funding and Implementation. – No funds from any source
 41 shall be used for the development and implementation of a private cloud without specific
 42 authorization by the General Assembly appropriating funds for this purpose.

43 **SECTION 6A.9.(e)** Report. – The State Chief Information Officer shall report the
 44 plan created pursuant to this section to the Joint Legislative Oversight Committee on
 45 Information Technology no later than January 1, 2013.

46 **SECTION 6A.9.(f)** Access by Private Vendors. – If the State Chief Information
 47 Officer provides to a potential vendor any information or access to State facilities in connection
 48 with or anticipation of the private cloud project described in this section, the State Chief
 49 Information Officer shall provide the same information or access to all potential vendors. The
 50 State Chief Information Officer shall certify the Officer's compliance with this subsection to the
 51 General Assembly.

52 ENTERPRISE GRANTS MANAGEMENT

53 **SECTION 6A.10.** Section 6A.7 of S.L. 2011-145, as amended by Section 11B of
 54 S.L. 2011-391, reads as rewritten:

55 "STATE INFORMATION TECHNOLOGY CONSOLIDATION

56 ...
 57 ~~**SECTION 6A.7.(b)** Beginning July 1, 2011, the State CIO shall plan and implement an
 58 enterprise level grants management system. Similar systems currently under development may
 59~~

1 ~~be suspended by the State CIO with funding reprogrammed to support development of the~~
2 ~~enterprise level grants management system.~~

3 ~~In coordination with the State CIO, the Department of Health and Human Services shall~~
4 ~~develop a plan to implement a single case management system throughout that Department,~~
5 ~~beginning in the 2012-2013 fiscal year, and shall report to the Joint Legislative Oversight~~
6 ~~Committee on Information Technology by February 1, 2012, on its initiatives to implement the~~
7 ~~system. The report shall include a detailed time line for completion and an explanation of the~~
8 ~~costs associated with case management consolidation.~~

9 "SECTION 6A.7.(b1) There is established a Grants Management Oversight Committee to
10 coordinate the development of an enterprise grants management system. The Committee shall
11 be chaired by the State Controller. Committee membership shall include the Senior Deputy
12 State Controller, the Director of the Office of State Budget and Management, and the State
13 Auditor.

14 The Committee shall:

- 15 (1) Establish priorities for agency projects.
- 16 (2) Establish priorities for development and implementation of system
17 capabilities.
- 18 (3) Review and approve system requirements.
- 19 (4) Review and approve plans associated with system development and
20 implementation.
- 21 (5) Review and approve costs and funding sources for system development and
22 implementation.
- 23 (6) Ensure system benefits are realistic and realized.

24 "SECTION 6A.7.(b2) By August 1, 2013, the Office of State Budget and Management
25 shall provide a detailed plan to the Joint Legislative Oversight Committee on Information
26 Technology and the Fiscal Research Division for the development and implementation of the
27 enterprise grants management system, including a time line, cost for each participating agency,
28 a comprehensive business plan, and information on the anticipated benefits of system
29 implementation.

30 "SECTION 6A.7.(b3) Beginning August 1, 2012, the Office of State Budget and
31 Management shall report monthly to the Joint Legislative Oversight Committee on Information
32 Technology and the Fiscal Research Division on the status of the system, including the
33 following information:

- 34 (1) Agencies currently participating in the system.
- 35 (2) Specific requirements for each agency project included in the system
36 development.
- 37 (3) Cost and funding sources for each agency participating in the system.
- 38 (4) Status of each agency project included in the system.
- 39 (5) Comparison of the status of each project to the time line, with an explanation
40 of any differences.
- 41 (6) Detailed descriptions of milestones to be completed that month and the
42 following month.
- 43 (7) Any changes in project cost for any participating agency, the reasons, and
44 the source of funding.
- 45 (8) Actual expenditures by agency, to date and during that month.
- 46 (9) Any potential funding shortfalls and their impact.
- 47 (10) Any issues identified during the month, with a corrective action plan and a
48 time line for resolving them.
- 49 (11) Impact of any issues on schedule or cost.
- 50 (12) Any changes to agency projects or the system as a whole.
- 51 (13) Any change requests and their cost.

52 "SECTION 6A.7.(b4) The State CIO shall provide all required assistance and support for
53 the development and implementation of the enterprise grants management system. Similar
54 systems currently under development may be suspended by the State CIO with funding
55 reprogrammed to support development of the enterprise grants management system.

56 "SECTION 6A.7.(b5) In coordination with the State CIO, the Department of Health and
57 Human Services shall develop a plan to implement a single case management system
58 throughout that Department, beginning in the 2012-2013 fiscal year, and shall report to the
59 Joint Legislative Oversight Committee on Information Technology by February 1, 2012, on its

1 initiatives to implement the system. The report shall include a detailed time line for completion
2 and an explanation of the costs associated with case management consolidation.

3 ~~"SECTION 6A.7.(e) Beginning September 1, 2011, and quarterly thereafter, the Office of~~
4 ~~State Budget and Management, in conjunction with the State CIO, shall provide written reports~~
5 ~~to the Joint Legislative Commission on Governmental Operations, the Joint Legislative~~
6 ~~Oversight Committee on Information Technology, and the Fiscal Research Division relating to~~
7 ~~State information technology consolidation."~~

9 PART VII. PUBLIC SCHOOLS

11 FUNDS FOR CHILDREN WITH DISABILITIES

12 SECTION 7.1. The State Board of Education shall allocate additional funds for
13 children with disabilities on the basis of three thousand seven hundred nine dollars (\$3,709) per
14 child. Each local school administrative unit shall receive funds for the lesser of (i) all children
15 who are identified as children with disabilities or (ii) twelve and five-tenths percent (12.5%) of
16 its 2012-2013 allocated average daily membership in the local school administrative unit. The
17 dollar amounts allocated under this section for children with disabilities shall also adjust in
18 accordance with legislative salary increments, retirement rate adjustments, and health benefit
19 adjustments for personnel who serve children with disabilities.

21 FUNDS FOR ACADEMICALLY GIFTED CHILDREN

22 SECTION 7.2. The State Board of Education shall allocate additional funds for
23 academically or intellectually gifted children on the basis of one thousand two hundred
24 twenty-three dollars and ninety-nine cents (\$1,223.99) per child for fiscal year 2012-2013. A
25 local school administrative unit shall receive funds for a maximum of four percent (4%) of its
26 2012-2013 allocated average daily membership, regardless of the number of children identified
27 as academically or intellectually gifted in the unit. The dollar amounts allocated under this
28 section for academically or intellectually gifted children shall also adjust in accordance with
29 legislative salary increments, retirement rate adjustments, and health benefit adjustments for
30 personnel who serve academically or intellectually gifted children.

32 SCHOOL IMPROVEMENT PLANS AT RESIDENTIAL SCHOOLS

33 SECTION 7.3.(a) In order to improve student performance, the Eastern North
34 Carolina School for the Deaf, the Governor Morehead School for the Blind, and the North
35 Carolina School for the Deaf each shall develop a school improvement plan that takes into
36 consideration the annual performance goal for that school that is set by the State Board of
37 Education. The principal of each school, instructional personnel and residential life personnel
38 assigned to that school, and a minimum of five parents of children enrolled in the school shall
39 constitute a school improvement team to develop a school improvement plan to improve
40 student performance.

41 Representatives of the instructional and residential life personnel shall be elected by
42 their respective groups by secret ballot.

43 Parents shall be elected by parents of children enrolled in the school in an election
44 conducted by the parent and teacher organization of the school or, if none exists, by the largest
45 organization of parents formed for this purpose. To the extent possible, parents serving on
46 school improvement teams shall reflect the composition of the students enrolled in that school.
47 No more than two parents on the team may be employees of the school. Parental involvement is
48 a critical component of school success and positive student achievement; therefore, it is the
49 intent of the General Assembly that parents, along with instructional and residential life
50 personnel, have a substantial role in developing school improvement plans. To this end, school
51 improvement team meetings shall be held at a convenient time to assure substantial parent
52 participation. Parents who are elected to serve on school improvement teams and who are not
53 employees of the school shall receive travel and subsistence expenses in accordance with
54 G.S. 138-5 and, if appropriate, may receive a stipend.

55 All school improvement plans shall be, to the greatest extent possible, data driven.
56 School improvement teams shall use the Education Value Added Assessment System
57 (EVAAS), or a compatible and comparable system approved by the State Board of Education,
58 to analyze student data to identify root causes for problems and to determine actions to address

1 them. School improvement plans shall contain clear, unambiguous targets, explicit indicators
2 and actual measures, and expeditious time frames for meeting the measurement standards.

3 **SECTION 7.3.(b)** The strategies for improving student performance shall include
4 the following:

- 5 (1) A plan for the use of staff development funds that may be made available to
6 the school to implement the school improvement plan. The plan may provide
7 that a portion of these funds is used for mentor training and for release time
8 and substitute teachers while teachers are meeting with mentors.
- 9 (2) A plan for preparing students to read at grade level by the time they enter
10 second grade. The plan shall require kindergarten and first grade teachers to
11 notify parents or guardians when a child is not reading at grade level and is
12 at risk of not reading at grade level by the time the child enters second grade.
13 The plan may include the use of assessments to monitor students' progress in
14 learning to read and strategies for teachers and parents to implement that will
15 help students improve and expand their reading ability, as well as provide
16 for the recognition of teachers and strategies that appear to be effective at
17 preparing students to read at grade level.
- 18 (3) A comprehensive plan to encourage parent involvement.
- 19 (4) A plan designed to provide that the school is safe, secure, and orderly; that
20 there is a climate of respect in the school; and that appropriate personal
21 conduct is a priority for all students and all residential school personnel.
- 22 (5) A plan that specifies the effective instructional practices and methods to be
23 used to improve the academic performance of students identified as at risk of
24 academic failure or at risk of dropping out of school.

25 **SECTION 7.3.(c)** Support among affected staff members is essential to successful
26 implementation of a school improvement plan to address improved student performance at that
27 school. The principal of the school shall present the proposed school improvement plan to all of
28 the instructional personnel assigned to the school for their review and vote. The vote shall be
29 by secret ballot. The principal shall submit the school improvement plan to the State Board of
30 Education only if the proposed school improvement plan has the approval of a majority of the
31 instructional personnel who voted on the plan.

32 **SECTION 7.3.(d)** The State Board of Education shall accept or reject the school
33 improvement plan within 60 days after the submission plan. If the State Board rejects a school
34 improvement plan, the State Board shall state with specificity the reasons for rejecting the plan
35 to the principal and shall direct that the principal work with the school improvement team to
36 resolve the disagreements. The school improvement team may then prepare another plan,
37 present it to the instructional personnel assigned to the school for a vote, and submit it to the
38 State Board to accept or reject. If there is no resolution within 30 days, then the State Board
39 may develop a school improvement plan for the school; however, the General Assembly urges
40 the State Board to utilize the school's proposed school improvement plan to the maximum
41 extent possible when developing this plan.

42 **SECTION 7.3.(e)** A school improvement plan shall remain in effect for no more
43 than three years; however, the school improvement team may amend the plan as often as is
44 necessary or appropriate. If, at any time, any part of a school improvement plan becomes
45 unlawful or the State Board finds that a school improvement plan is impeding student
46 performance at a school, the State Board may vacate the relevant portion of the plan and may
47 direct the school to revise that portion. The procedures set out in this section shall apply to
48 amendments and revisions to school improvement plans.

49 **SECTION 7.3.(f)** Any funds the State Board makes available to a school to meet
50 the goals for that school under the ABCs Program and to implement the school improvement
51 plan at that school shall be used in accordance with those goals and the school improvement
52 plan.

53 **SECTION 7.3.(g)** The State Board shall develop a list of recommended strategies
54 that it determines to be effective, which building-level committees may use to establish parent
55 involvement programs designed to meet the specific needs of their schools.

56 **SECTION 7.3.(h)** Once the plan is developed, the principal shall ensure the plan is
57 available and accessible to parents and the school community.

58 SCHOOL CALENDAR PILOT PROGRAM

1 **SECTION 7.4.(a)** The State Board of Education shall establish a school calendar
 2 pilot program in the Wilkes County Schools. The purpose of the pilot program is to determine
 3 whether and to what extent a local school administrative unit can save money during this
 4 extreme fiscal crisis by consolidating the school calendar.

5 Notwithstanding G.S. 115C-84.2(a)(1), the school calendar for the 2012-2013
 6 calendar year for the pilot school system shall include a minimum of 180 days or 1,000 hours
 7 of instruction covering at least nine calendar months.

8 If the local board of education in a pilot school system adds instructional hours to
 9 previously scheduled days under this section, the local school administrative unit is deemed to
 10 have a minimum of 180 days of instruction, and teachers employed for a 10-month term are
 11 deemed to have been employed for the days being made up and shall be compensated as if they
 12 had worked the days being made up.

13 **SECTION 7.4.(b)** The State Board of Education shall report to the Joint
 14 Legislative Education Oversight Committee by March 15, 2013, on the administration of the
 15 pilot program, cost savings realized by it, and its impact on student achievement.

16 **SECTION 7.4.(c)** The pilot program shall terminate at the end of the 2012-2013
 17 school calendar year.

18 **REPEAL PROHIBITION ON TEACHER PREPAYMENT**

19 **SECTION 7.6.** Section 5 of S.L. 2011-379 is repealed.

20 **RESIDENTIAL SCHOOLS**

21 **SECTION 7.8.(a)** Section 7.25(a) of S.L. 2011-145 is repealed.

22 **SECTION 7.8.(b)** The Department of Public Instruction shall not transfer any
 23 school-based personnel from the residential schools to central office administrative positions.

24 **SECTION 7.8.(c)** Notwithstanding G.S. 146-30 or any other provision of law, the
 25 Department of Public Instruction shall retain all proceeds generated from the rental of building
 26 space on the residential school campuses. The Department of Public Instruction shall use all
 27 receipts generated from these leases to staff and operate the North Carolina School for the
 28 Deaf, the Eastern North Carolina School for the Deaf, and the Governor Morehead School.
 29 These receipts shall not be used to support administrative functions within the Department.
 30
 31
 32

33 **CLARIFYING COOPERATIVE INNOVATIVE HIGH SCHOOL STATUTES**

34 **SECTION 7.11.(a)** G.S. 115C-238.50A reads as rewritten:

35 **"§ 115C-238.50A. Definitions.**

36 The following definitions apply in this Part:

37 (1) Constituent institution. – A constituent institution as defined in
 38 G.S. 116-2(4).

39 (1a) Cooperative innovative high school. – A high school approved by the State
 40 Board of Education and the applicable governing Board that meets the
 41 following criteria:

42 a. It has no more than 100 students per grade level.

43 b. It partners with an institution of higher education to enable students
 44 to concurrently obtain a high school diploma and begin or complete
 45 an associate degree program, master a certificate or vocational
 46 program, or earn up to two years of college credit within five years.

47 c. It is located on the campus of the partner institution of higher
 48 education, unless the governing ~~board~~ Board or the local board of
 49 trustees for a private North Carolina college specifically waives the
 50 requirement through adoption of a formal resolution.

51 (1b) Cooperative innovative high school allotment. – Funds appropriated by the
 52 General Assembly to the Department of Public Instruction to provide
 53 additional resources to approved cooperative innovative high schools.

54 (2) Education partner. – An education partner as provided in G.S. 115C-238.52.

55 (3) ~~Governing board.~~ Board. – ~~The State Board of Education, the State Board of~~
 56 ~~Community Colleges, Colleges or the Board of Governors of The University~~
 57 ~~of North Carolina, or the Board of the North Carolina Independent Colleges~~
 58 ~~and Universities, Carolina.~~

- 1 (3a) Local board of education. – A local board as defined in G.S. 115C-5(5) or a
2 regional school board of directors as defined in G.S. 115C-238.61(5).
3 (4) Local board of trustees. – The board of trustees of a community college,
4 constituent institution of The University of North Carolina, or private
5 college located in North Carolina.
6 (5) Partner institution of higher education. – A community college, constituent
7 institution of The University of North Carolina, or private college located in
8 North Carolina."

9 **SECTION 7.11.(b)** G.S. 115C-238.51 reads as rewritten:

10 **"§ 115C-238.51. Application process.**

11 (a) A local board of education and at least one local board of trustees shall jointly apply
12 to establish a cooperative innovative high school program under this Part.

13 (b) The application shall contain at least the following information:

- 14 (1) A description of a program that implements the purposes in
15 G.S. 115C-238.50.
16 (2) A statement of how the program relates to the Economic Vision Plan
17 adopted for the economic development region in which the ~~program~~
18 cooperative innovative high school is to be located.
19 (3) The facilities to be used by the program cooperative innovative high school
20 and the manner in which administrative services of the program school are to
21 be provided.
22 (4) A description of student academic and vocational achievement goals and the
23 method of demonstrating that students have attained the skills and
24 knowledge specified for those goals.
25 (5) A description of how the ~~program~~ cooperative innovative high school will be
26 operated, including budgeting, curriculum, transportation, and operating
27 procedures.
28 (6) The process to be followed by the program cooperative innovative high
29 school to ensure parental involvement.
30 (7) The process by which students will be selected for and admitted to the
31 program cooperative innovative high school.
32 (8) A description of the funds that will be used and a proposed budget for the
33 first five years of the implementation of the program cooperative innovative
34 high school. This description shall identify how the average daily
35 membership (ADM) and full-time equivalent (FTE) students are counted. If
36 additional funds are requested, a description of how those additional funds
37 will be used shall be submitted. Additional funds may include the
38 cooperative innovative high school allotment and tuition payments. For
39 cooperative innovative high schools that have a community college as their
40 partner institution of higher education, the proposed budget shall include the
41 cost of including their students in calculations of budget full-time equivalent
42 students for the North Carolina Community College System.
43 (9) The qualifications required for individuals employed in the
44 program cooperative innovative high school.
45 (10) The number of students to be served.
46 (11) A description of how the ~~program's~~ cooperative innovative high school's
47 effectiveness in meeting the purposes in G.S. 115C-238.50 will be measured.

48 (c) The application shall be submitted to the State Board of Education and the
49 applicable governing ~~Boards~~ Board. If the partner institution of higher education is a private
50 North Carolina college, the application shall be submitted solely to the State Board of
51 Education. The Boards shall appoint a joint advisory committee to review the applications and
52 to recommend to the Boards those programs that meet the requirements of this Part and that
53 achieve the purposes set out in G.S. 115C 238.50.

54 (d) ~~The Boards may approve programs recommended by the joint advisory committee~~
55 ~~or may approve other programs that were not recommended. The Boards shall approve all~~
56 ~~applications by June 30 of each year. No application shall be approved unless the State Board~~
57 ~~of Education and the applicable governing Board find that the application meets the~~
58 ~~requirements set out in this Part and that granting the application would achieve the purposes~~
59 ~~set out in G.S. 115C 238.50. Priority shall be given to applications that are most likely to~~

1 further State education policies, to address the economic development needs of the economic
2 development regions in which they are located, and to strengthen the educational programs
3 offered in the local school administrative units in which they are located.

4 (e) ~~No additional State funds shall be provided to approved programs unless~~
5 ~~appropriated by the General Assembly."~~

6 SECTION 7.11.(c) Part 9 of Article 16 of Chapter 115C of the General Statutes is
7 amended by adding a new section to read:

8 "**§ 115C-238.51A. Approval process.**

9 (a) Joint Advisory Committee. – The State Board of Education and the applicable
10 governing Board of the local board of trustees shall appoint a joint advisory committee to
11 review the applications and to recommend approval for those applications that meet the
12 requirements of this Part and achieve purposes set out in G.S. 115C-238.50. The
13 recommendation shall indicate whether additional funds were requested in the application.

14 (b) No Additional Funds. – For applications which have not requested additional funds,
15 the State Board of Education and the applicable governing Board may approve cooperative
16 innovative high schools. In granting approval, consideration shall be given to the proposed
17 budget and demonstration of sources of sustainable funding for the operation of the cooperative
18 innovative high school. Approvals shall be made by June 30 of each year. No additional State
19 funds, position allotments, earning of budget full-time equivalent students, or payments of
20 tuition shall be provided to cooperative innovative high schools approved under this subsection.

21 (c) Additional Funds. – For applications which have requested additional funds, the
22 State Board of Education and the applicable governing Board may approve cooperative
23 innovative high schools contingent upon appropriation of the additional funds by the General
24 Assembly. Contingent approval shall be made by April 1 of each year. The contingent approval
25 shall expire if no appropriation is made by the General Assembly for the additional funds
26 within one calendar year. No cooperative innovative high school shall open prior to the
27 appropriation by the General Assembly of the full amount of the additional funds as requested
28 in the application for that school under G.S. 115C-238.51 for the upcoming fiscal year or fiscal
29 biennium, as appropriate. If no appropriation is made by the General Assembly, a revised
30 application may be submitted under subsection (b) of the section."

31 SECTION 7.11.(d) G.S. 115C-238.52 reads as rewritten:

32 "**§ 115C-238.52. Participation by other education partners.**

33 (a) Any or all of the following education partners may participate in the development of
34 a cooperative innovative ~~program~~ high school under this Part that is targeted to high school
35 students who would benefit from accelerated academic instruction:

- 36 (1), (2) Repealed by Session Laws 2005-276, s. 7.33(a), effective July 1, 2005.
37 (3) A private business or organization.
38 (4) The county board of commissioners in the county in which the ~~program~~
39 cooperative innovative high school is located.

40 (b) Any or all of the education partners listed in subsection (a) of this section that
41 participate shall:

- 42 (1) Jointly apply with the local board of education and the local board of
43 trustees to establish a cooperative innovative ~~program~~ high school under this
44 Part.
45 (2) Be identified in the application.
46 (3) Sign the written agreement under G.S. 115C-238.53(b)."

47 SECTION 7.11.(e) G.S. 115C-238.53 reads as rewritten:

48 "**§ 115C-238.53. Program operation.**~~Operation of cooperative innovative high schools.~~

49 (a) A ~~program~~ cooperative innovative high school approved by the State is accountable
50 to the local board of education.

51 (b) A ~~program~~ cooperative innovative high school approved under this Part shall operate
52 under the terms of a written agreement signed by the local board of education, local board of
53 trustees, State Board of Education, and applicable governing Board. The agreement shall
54 incorporate the information provided in the application, as modified during the approval
55 process, and any terms and conditions imposed on the ~~program~~ school by the State Board of
56 Education and the applicable governing Board. The agreement may be for a term of no longer
57 than five school years.

1 (c) A ~~program~~ cooperative innovative high school may be operated in a facility owned
2 or leased by the local board of education, the local board of trustees, or the education partner, if
3 any.

4 (d) A ~~program~~ cooperative innovative high school approved under this Part shall provide
5 instruction each school year for at least ~~180~~ 185 days during nine calendar months, shall
6 comply with laws and policies relating to the education of students with disabilities, and shall
7 comply with Article 27 of this Chapter.

8 (e) A ~~program~~ cooperative innovative high school approved under this Part may use
9 State, federal, and local funds allocated to the local school administrative unit, to the applicable
10 governing Board, and to the ~~college or university~~ partner institution of higher education to
11 implement ~~the~~ its program. If there is an education partner and if it is a public body, the
12 ~~program~~ cooperative innovative high school may use State, federal, and local funds allocated to
13 that body.

14 (f) Except as provided in this Part and under the terms of the ~~agreement~~ agreement,
15 cooperative innovative high schools:

16 (1) ~~A program shall~~ Shall have the same exemptions from statutes and rules as
17 charter schools operating under Part 6A of this Article, other than those
18 pertaining to personnel.

19 (2) ~~A program may~~ May be exempted by the State Board of Education or by the
20 applicable governing Board from laws and rules applicable to a local board
21 of education, a local school administrative unit, a community college, a
22 constituent institution, or a local board of trustees."

23 **SECTION 7.11.(f)** G.S. 115C-238.54 reads as rewritten:

24 "**§ 115C-238.54. Funds for ~~programs~~ cooperative innovative high schools.**

25 (a) The Department of Public Instruction shall assign a school code for each
26 ~~program~~ cooperative innovative high school that is approved under this Part. Notwithstanding
27 G.S. 115C-105.25, once the ~~program~~ cooperative innovative high school has been assigned a
28 school code, the local board of education may use these funds for the ~~programs~~ school and may
29 transfer these funds between funding allotment categories.

30 (a1) Repealed by Session Laws 2011-145, s. 7.1A(j), effective January 1, 2012.

31 (b) The local board of trustees may allocate State and federal funds for a ~~program~~
32 cooperative innovative high school that is approved under this Part.

33 (c) An education partner under G.S. 115C-238.52 that is a public body may allocate
34 State, federal, and local funds for a ~~program~~ cooperative innovative high school that is approved
35 under this Part.

36 (d) If not an education partner under G.S. 115C-238.52, a county board of
37 commissioners in a county where a ~~program~~ cooperative innovative high school is located may
38 nevertheless appropriate funds to a ~~program~~ the school approved under this Part.

39 (e) The local board of education and the local board of trustees are strongly encouraged
40 to seek funds from sources other than State, federal, and local appropriations. They are strongly
41 encouraged to seek funds the Education Cabinet identifies or obtains under G.S. 116C-4.

42 (f) Students in cooperative innovative high schools shall not be charged tuition for
43 courses taken through the partner institution of higher education.

44 (g) Students in cooperative innovative high schools that have a community college as
45 their partner institution of higher education and were approved under G.S. 115C-238.51A(c)
46 shall be included in calculations of budget full-time equivalent students for the North Carolina
47 Community College System. Students in cooperative innovative high schools that have a
48 community college as their partner institution of higher education and were approved under
49 G.S. 115C-238.51A(b) shall not be included in calculations of budget full-time equivalent
50 students for the North Carolina Community College System.

51 (h) The State Board of Education shall reimburse The University of North Carolina for
52 tuition for courses taken by students at cooperative innovative high schools that have a
53 constituent institution of The University of North Carolina as their partner institution of higher
54 education and were approved under G.S. 115C-238.51A(c). Tuition payments shall not exceed
55 the annual Board of Governors-approved undergraduate resident tuition rate calculated on a per
56 credit hour basis and shall not include fees. In addition, the cooperative innovative high school
57 students' credit hours shall be nonfundable under The University of North Carolina Semester
58 Credit Hour Enrollment Change Funding Model. The State Board of Education shall not
59 reimburse The University of North Carolina for tuition for courses taken by students at

1 cooperative innovative high schools that have a constituent institution of The University of
2 North Carolina as their partner institution of higher education approved under
3 G.S. 115C-238.51A(b).

4 (i) The State Board of Education shall reimburse private North Carolina colleges for
5 tuition for courses taken by students at cooperative innovative high schools that have a private
6 North Carolina college as their partner institution of higher education and were approved under
7 G.S. 115C-238.51A(c). Tuition payments shall not exceed the highest undergraduate resident
8 rate approved by the Board of Governors for the University of North Carolina constituent
9 institutions and shall not include fees. The State Board of Education shall not reimburse private
10 North Carolina colleges for tuition for courses taken by students at cooperative innovative high
11 schools that have a private North Carolina college as their partner institution of higher
12 education and were approved under G.S. 115C-238.51A(b)."

13 **SECTION 7.11.(g)** G.S. 115C-238.55 reads as rewritten:

14 "**§ 115C-238.55. Evaluation of ~~programs~~ cooperative innovative high schools.**

15 The State Board of Education and the governing Boards shall evaluate the success of
16 students in ~~programs~~ cooperative innovative high schools approved under this Part. Success
17 shall be measured by high school retention rates, high school completion rates, high school
18 dropout rates, certification and associate degree completion, admission to four-year institutions,
19 postgraduation employment in career or study-related fields, and employer satisfaction of
20 employees who participated in and graduated from the ~~programs~~ schools. The Boards shall
21 jointly report by January 15 of each year to the Joint Legislative Education Oversight
22 Committee on the evaluation of these ~~programs~~ schools."

23 **SECTION 7.11.(h)** Section 7.21(e) of S.L. 2010-31 is repealed.

24 **SECTION 7.11.(i)** This section is effective when it becomes law.

25 **NORTH CAROLINA VIRTUAL PUBLIC SCHOOLS**

26 **SECTION 7.12.** Section 7.22(k) of S.L. 2011-145 is repealed.

27 **REPEAL OBSOLETE REPORTS**

28 **SECTION 7.13.(a)** Section 7.19(d) of S.L. 2007-323 is repealed.

29 **SECTION 7.13.(b)** Section 7.21 of S.L. 2007-323 is repealed.

30 **SECTION 7.13.(c)** G.S. 115C-276(t) is repealed.

31 **SECTION 7.13.(d)** Subsections (c) and (g) of Section 7.5 of S.L. 2010-31 are
32 repealed.

33 **SECTION 7.13.(e)** Section 7.19(c) of S.L. 2010-31 is repealed.

34 **SECTION 7.13.(f)** G.S. 115C-12(26) is repealed.

35 **TEACHER/TEACHER ASSISTANT LEAVE ON INSTRUCTIONAL DAYS.**

36 **SECTION 7.14.(a)** G.S. 115C-302.1(c) reads as rewritten:

37 (c) Vacation. – Included within the 10-month term shall be annual vacation leave at the
38 same rate provided for State employees, computed at one-twelfth of the annual rate for State
39 employees for each month of employment. Local boards shall provide at least 10 days of
40 annual vacation leave at a time when students are not scheduled to be in regular attendance.
41 However, instructional personnel who do not require a substitute may use annual vacation leave
42 on days that students are in attendance. Vocational and technical education teachers who are
43 employed for 11 or 12 months may, with prior approval of the principal, work on annual
44 vacation leave days designated in the school calendar and may use those annual vacation leave
45 days during the eleventh or twelfth month of employment. Local boards of education may
46 adopt policies permitting instructional personnel employed for 11 or 12 months in year-round
47 schools to, with the approval of the principal, take vacation leave at a time when students are in
48 attendance; local funds shall be used to cover the cost of substitute teachers.

49 On a day that pupils are not required to attend school due to inclement weather, but
50 employees are required to report for a workday, a teacher may elect not to report due to
51 hazardous travel conditions and to take an annual vacation day or to make up the day at a time
52 agreed upon by the teacher and the teacher's immediate supervisor or principal. On a day that
53 school is closed to employees and pupils due to inclement weather, a teacher shall work on the
54 scheduled makeup day.
55
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57

1 All vacation leave taken by the teacher will be upon the authorization of the teacher's
2 immediate supervisor and under policies established by the local board of education. Annual
3 vacation leave shall not be used to extend the term of employment.

4 Notwithstanding any provisions of this subsection to the contrary, no person shall be
5 entitled to pay for any vacation day not earned by that person."

6 **SECTION 7.14.(b)** G.S. 115C-316(a)(3) reads as rewritten:

7 "(3) Notwithstanding any provisions of this section to the contrary no person
8 shall be entitled to pay for any vacation day not earned by that person. The
9 first 10 days of annual leave earned by a 10- or 11-month employee during
10 any fiscal year period shall be scheduled to be used in the school calendar
11 adopted by the respective local boards of education. Vacation days shall not
12 be used for extending the term of employment of individuals. Ten- or
13 11-month employees may accumulate annual vacation leave days as follows:
14 annual leave may be accumulated without any applicable maximum until
15 June 30 of each year. On June 30 of each year, any of these employees with
16 more than 30 days of accumulated leave shall have the excess accumulation
17 converted to sick leave so that only 30 days are carried forward to July 1 of
18 the same year. All vacation leave taken by these employees shall be upon the
19 authorization of their immediate supervisor and under policies established by
20 the local board of education. The policies may permit teacher assistants who
21 require a substitute and are employed for 11 or 12 months in year-round
22 schools to take vacation leave at a time when students are in attendance;
23 local funds shall be used to cover the cost of substitutes. Vacation leave for
24 instructional personnel who do not require a substitute shall not be restricted
25 to days that students are not in attendance. An employee shall be paid in a
26 lump sum for accumulated annual leave not to exceed a maximum of 240
27 hours or 30 days when separated from service due to resignation, dismissal,
28 reduction in force, death or service retirement. Upon separation from service
29 due to service retirement, any annual vacation leave over 30 days will
30 convert to sick leave and may be used for creditable service at retirement in
31 accordance with G.S. 135-4(e). If the last day of terminal leave falls on the
32 last workday in the month, payment shall be made for the remaining
33 nonworkdays in that month. Employees retiring on disability retirement may
34 exhaust annual leave rather than be paid in a lump sum. The provisions of
35 this subdivision shall be accomplished without additional State and local
36 funds being appropriated for this purpose. The State Board of Education
37 shall adopt rules and regulations for the administration of this subdivision."

38 **SECTION 7.14.(c)** This section applies beginning with the 2012-2013 school year.
39

40 **EDUCATION VALUE ADDED ASSESSMENT SYSTEM (EVAAS)**

41 **SECTION 7.15.** The State Board of Education shall continue to further implement
42 the Education Value Added Assessment System (EVAAS) by (i) enabling direct access to
43 value-added information for teachers who teach classes with an End-of-Course/End-of-Grade
44 test; (ii) creating the capability for users to export EVAAS data and merge it with other relevant
45 analyses; and (iii) enabling further development of student-teacher linkages for measuring
46 student growth.
47

48 **GEOGRAPHICALLY ISOLATED SCHOOLS**

49 **SECTION 7.16.** A local school administrative unit receiving special allotments for
50 a small, geographically isolated school shall continue to receive one-half of that special
51 allotment funding for the fiscal year after the school is closed. These funds shall be used to
52 assist in the transition of students from the closed school to other schools in the local school
53 administrative unit.
54

55 **INVESTING IN INNOVATION GRANT**

56 **SECTION 7.17.(a)** The federal Investing in Innovation Fund Grant: Validating
57 Early College Strategies for Traditional Comprehensive High Schools awarded to the North
58 Carolina New Schools Project for 2012-2017, requires students to enroll in a community
59 college course in the tenth grade. Notwithstanding any other provision of law, specified local

1 school administrative units may offer one community college course to participating
2 sophomore (tenth grade) students. Participating local school administrative units are
3 Alleghany, Beaufort, Hertford, Jones, Madison, Richmond, Rutherford, Sampson, Surry,
4 Wilkes, and Yancey County Schools.

5 **SECTION 7.17.(b)** Grant funds shall be used to pay for all costs incurred by the
6 local school administrative units and the community college partners to implement the grant,
7 including community college FTE. Community colleges shall not earn budget FTE for student
8 course enrollments supported with this grant.

9 **SECTION 7.17.(c)** Research for the project shall address the effects of Early
10 College strategies in preparing students for Career and College Promise. The North Carolina
11 New Schools Project shall report on the implementation of the grant to the State Board of
12 Education, State Board of Community Colleges, Office of the Governor, and the Joint
13 Legislative Education Oversight Committee no later than March 15, 2013, and annually
14 thereafter until the end of the grant period.

15 16 **PART VII-A. EXCELLENT PUBLIC SCHOOLS ACT**

17 18 **IMPROVE K-3 LITERACY**

19 **SECTION 7A.1.(a)** G.S. 115C-81.2 is repealed.

20 **SECTION 7A.1.(b)** Article 8 of Chapter 115C of the General Statutes is amended
21 by adding a new Part to read:

22 "Part 1A. North Carolina Read to Achieve Program.

23 **"§ 115C-83.1A. State goal.**

24 The goal of the State is to ensure that every student read at or above grade level by the end
25 of third grade and continue to progress in reading proficiency so that he or she can read,
26 comprehend, integrate, and apply complex texts needed for secondary education and career
27 success.

28 **"§ 115C-83.1B. Purposes.**

29 (a) The purposes of this Part are to ensure that (i) difficulty with reading development is
30 identified as early as possible; (ii) students receive appropriate instructional and support
31 services to address difficulty with reading development and to remediate reading deficiencies;
32 and (iii) each student and his or her parent or guardian be continuously informed of the
33 student's academic needs and progress.

34 (b) In addition to the purposes listed in subsection (a) of this section, the purpose of this
35 Part is to determine that progression from one grade to another be based, in part, upon
36 proficiency in reading.

37 **"§ 115C-83.1C. Definitions.**

38 The following definitions apply in this Part:

- 39 (1) "Accelerated reading class" means a class where focused instructional
40 supports and services are provided to increase a student's reading level at
41 least two grades in one school year.
- 42 (2) "Alternative assessment" means a valid and reliable standardized assessment
43 of reading comprehension, approved by the State Board of Education, that is
44 not the same test as the State approved standardized test of reading
45 comprehension administered to third grade students.
- 46 (3) "Instructional supports and services" mean intentional strategies used with a
47 majority of students to facilitate reading development and remediate
48 emerging difficulty with reading development. Instructional supports and
49 services include, but are not limited to, small group instruction, reduced
50 teacher-student ratios, frequent progress monitoring, and extended learning
51 time.
- 52 (4) "Difficulty with reading development" means not demonstrating appropriate
53 developmental abilities in any of the major reading areas, including, but not
54 limited to, oral language, phonological or phonemic awareness, vocabulary,
55 fluency, or comprehension, according to observation-based, diagnostic, or
56 formative assessments.
- 57 (5) "Reading interventions" mean evidence-based strategies frequently used to
58 remediate reading deficiencies and include, but are not limited to, individual

- 1 instruction, tutoring, or mentoring that target specific reading skills and
2 abilities.
- 3 (6) "Reading proficiency" means reading at or above the third grade level by the
4 end of a student's third grade year, demonstrated by the results of the
5 State-approved standardized test of reading comprehension administered to
6 third grade students.
- 7 (7) "Reading deficiency" means not reading at the third grade level by the end of
8 the student's third grade year, demonstrated by the results of the
9 State-approved standardized test of reading comprehension administered to
10 third grade students.
- 11 (8) "Student reading portfolio" means a compilation of independently produced
12 student work selected by the student's teacher, and signed by the teacher and
13 principal, as an accurate picture of the student's reading ability. The student
14 reading portfolio shall include an organized collection of evidence of the
15 student's mastery of the State's reading standards that are assessed by the
16 State-approved standardized test of reading comprehension administered to
17 third grade students. For each benchmark, there shall be three examples of
18 student work demonstrating mastery by a grade of seventy percent (70%) or
19 above.
- 20 (9) "Summer reading camp" means an additional educational program outside of
21 the instructional calendar provided by the local school administrative unit to
22 any student who does not demonstrate reading proficiency. Parents or
23 guardians of the student not demonstrating reading proficiency shall make
24 the final decision regarding the student's summer camp attendance. Summer
25 camps shall (i) be six to eight weeks long, four or five days per week; (ii)
26 include at least three hours of instructional time per day; (iii) be taught by
27 compensated, licensed teachers selected based on demonstrated student
28 outcomes in reading proficiency; and (iv) allow volunteer mentors to read
29 with students.
- 30 (10) "Transitional third and fourth class combination" means a classroom
31 specifically designed to produce learning gains sufficient to meet fourth
32 grade performance standards while continuing to remediate areas of reading
33 deficiency.

34 **"§ 115C-83.1D. Comprehensive plan for reading achievement.**

35 (a) The State Board of Education shall develop, implement, and continuously evaluate a
36 comprehensive plan to improve reading achievement in the public schools. The plan shall be
37 based on reading instructional practices with strong evidence of effectiveness in current
38 empirical research in reading development. The plan shall be developed with the active
39 involvement of teachers, college and university educators, parents and guardians of students,
40 and other interested parties. The plan shall, when appropriate to reflect research, include
41 revision of the standard course of study or other curricular standards, revision of teacher
42 licensure and renewal standards, and revision of teacher education program standards.

43 (b) The State Board of Education shall report biennially to the Joint Legislative
44 Education Oversight Committee by October 1 of each even-numbered year on the
45 implementation, evaluation, and revisions to the comprehensive plan for reading achievement
46 and shall include recommendations for legislative changes to enable implementation of current
47 empirical research in reading development.

48 **"§ 115C-83.1E. Developmental screening and kindergarten entry assessment.**

49 (a) The State Board of Education shall ensure that every student entering kindergarten
50 shall be administered a developmental screening of early language, literacy, and math skills
51 within 30 days of enrollment.

52 (b) The State Board of Education shall ensure that every student entering kindergarten
53 shall complete a kindergarten entry assessment within 60 days of enrollment.

54 (c) The developmental screening instrument may be composed of subsections of the
55 kindergarten entry assessment.

56 (d) The kindergarten entry assessment shall address the five essential domains of school
57 readiness: language and literacy development, cognition and general knowledge, approaches
58 toward learning, physical well-being and motor development, and social and emotional
59 development.

1 (e) The kindergarten entry assessment shall be (i) administered at the classroom level in
2 all local school administrative units; (ii) aligned to North Carolina's early learning and
3 development standards and to the standard course of study; and (iii) reliable, valid, and
4 appropriate for use with all children, including those with disabilities and those who are
5 English language learners.

6 (f) The results of the developmental screening and the kindergarten entry assessment
7 shall be used to inform the following:

8 (1) The status of children's learning at kindergarten entry.

9 (2) Instruction of each child.

10 (3) Efforts to reduce the achievement gap at kindergarten entry.

11 (4) Continuous improvement of the early childhood system.

12 **"§ 115C-83.1F. Facilitating early grade reading proficiency.**

13 (a) Kindergarten, first, second, and third grade students shall be assessed with valid,
14 reliable, formative, and diagnostic reading assessments made available to local school
15 administrative units by the State Board of Education pursuant to G.S. 115C-174.11(a).
16 Difficulty with reading development identified through administration of formative and
17 diagnostic assessments shall be addressed with instructional supports and services. To the
18 greatest extent possible, kindergarten through third grade reading assessments shall yield data
19 that can be used with the Education Value Added Assessment System (EVAAS), or a
20 compatible and comparable system approved by the State Board of Education, to analyze
21 student data to identify root causes for difficulty with reading development and to determine
22 actions to address them.

23 (b) Formative and diagnostic assessments and resultant instructional supports and
24 services shall address oral language, phonological and phonemic awareness, phonics,
25 vocabulary, fluency, and comprehension using developmentally appropriate practices.

26 (c) Local school administrative units are encouraged to partner with community
27 organizations, businesses, and other groups to provide volunteers, mentors, or tutors to assist
28 with the provision of instructional supports and services that enhance reading development and
29 proficiency.

30 **"§ 115C-83.1G. Elimination of social promotion.**

31 (a) The State Board of Education shall require that a student be retained in the third
32 grade if the student fails to demonstrate reading proficiency appropriate for a third grade
33 student, as demonstrated on a State-approved standardized test of reading comprehension
34 administered to third grade students. The test may be re-administered once prior to the end of
35 the school year.

36 (b) Students may be exempt from mandatory retention in third grade for good cause but
37 shall continue to receive instructional supports and services and reading interventions
38 appropriate for their age and reading level. Good cause exemptions shall be limited to the
39 following:

40 (1) Limited English Proficient students with less than two years of instruction in
41 an English as a Second Language program.

42 (2) Students with disabilities, as defined in G.S. 115C-106.3(1), whose
43 individualized education program indicates the use of alternative
44 assessments and reading interventions.

45 (3) Students who demonstrate reading proficiency appropriate for third grade
46 students on an alternative assessment approved by the State Board of
47 Education. Teachers may administer the alternative assessment following the
48 administration of the State-approved standardized test of reading
49 comprehension typically given to third grade students at the end of the
50 school year, or after a student's participation in the local school
51 administrative unit's summer reading camp.

52 (4) Students who demonstrate, through a student reading portfolio, reading
53 proficiency appropriate for third grade students. Teachers may submit the
54 student reading portfolio at the end of the school year, or after a student's
55 participation in the local school administrative unit's summer reading camp.
56 The student reading portfolio and review process shall be established by the
57 State Board of Education.

58 (5) Students who have (i) received reading intervention and (ii) previously been
59 retained more than once in kindergarten, first, second, or third grades.

1 (c) The superintendent shall determine whether a student may be exempt from
2 mandatory retention on the basis of a good cause exemption. The following steps shall be taken
3 in making the determination:

4 (1) The teacher of a student eligible for a good cause exemption shall submit
5 documentation of the relevant exemption and evidence that promotion of the
6 student is appropriate based on the student's academic record to the
7 principal. Such evidence shall be limited to the student's personal education
8 plan, individual education program, if applicable, alternative assessment, or
9 student reading portfolio.

10 (2) The principal shall review the documentation and make an initial
11 determination whether the student should be promoted. If the principal
12 determines the student should be promoted, the principal shall make a
13 written recommendation of promotion to the superintendent for final
14 determination. The superintendent's acceptance or rejection of the
15 recommendation shall be in writing.

16 **"§ 115C-83.1H. Successful reading development for retained students.**

17 (a) Students not demonstrating reading proficiency shall be enrolled in a summer
18 reading camp provided by the local school administrative unit prior to being retained. Students
19 who demonstrate reading proficiency on an alternative assessment of reading comprehension or
20 student reading portfolio after completing a summer reading camp shall be promoted to the
21 fourth grade. Students who do not demonstrate reading proficiency on these measures after
22 completing a summer reading camp shall be retained under G.S. 115C-83.1G(a) and provided
23 with the instruction listed in subsection (b) of this section during the retained year.

24 (b) Students retained under G.S. 115C-83.1G(a) shall be provided with a teacher
25 selected based on demonstrated student outcomes in reading proficiency and placed in an
26 accelerated reading class or a transitional third and fourth grade class combination, as
27 appropriate. Classroom instruction shall include at least 90 minutes of daily, uninterrupted,
28 evidence-based reading instruction, not to include independent reading time, and other
29 appropriate instructional supports and services and reading interventions.

30 (c) The State Board of Education shall establish a midyear promotion policy for any
31 student retained under G.S. 115C-83.1G(a) who, by November 1, demonstrates reading
32 proficiency through administration of the alternative assessment of reading comprehension, or
33 student reading portfolio review.

34 (d) Parents or guardians of students who have been retained once under the provisions
35 of G.S. 115C-83.1G(a) shall be provided with a plan for reading at home, including
36 participation in shared and guided reading workshops for the parent or guardian, and outlined
37 in a parental or guardian contract.

38 (e) Parents or guardians of students who have been retained twice under the provisions
39 of G.S. 115C-83.1G(a) shall be offered supplemental tutoring for the retained student in
40 evidence-based reading services outside the instructional day.

41 **"§ 115C-83.1I. Notification requirements to parents and guardians.**

42 (a) Parents or guardians shall be notified in writing, and in a timely manner, that the
43 student shall be retained, unless he or she is exempt from mandatory retention for good cause,
44 if the student is not demonstrating reading proficiency by the end of third grade. Parents or
45 guardians shall receive this notice when a kindergarten, first, second or third grade student (i) is
46 demonstrating difficulty with reading development; (ii) is not reading at grade level; or (iii) has
47 a personal education plan under G.S. 115C-105.41.

48 (b) Parents or guardians of any student who is to be retained under the provisions of
49 G.S. 115C-83.1G(a) shall be notified in writing of the reason the student is not eligible for a
50 good cause exemption as provided in G.S. 115C-83.1G(b). Written notification shall also
51 include a description of proposed reading interventions that will be provided to the student to
52 remediate identified areas of reading deficiency.

53 (c) Parents or guardians of students retained under G.S. 115C-83.1G(a) shall receive at
54 least monthly written reports on student progress towards reading proficiency. The evaluation
55 of the student's progress shall be based upon the student's classroom work, observations, tests,
56 assessments, and other relevant information.

57 (d) Teachers and principals shall provide opportunities to discuss with parents and
58 guardians the notifications listed in this section.

59 **"§ 115C-83.1J. Accountability measures.**

1 (a) Each local board of education shall publish annually on a Web site maintained by
 2 that local school administrative unit and report in writing to the State Board of Education by
 3 September 1 of each year the following information on the prior school year:

4 (1) The number and percentage of third grade students demonstrating and not
 5 demonstrating reading proficiency on the State-approved standardized test of
 6 reading comprehension administered to third grade students.

7 (2) The number and percentage of third grade students who take and pass the
 8 alternative assessment of reading comprehension.

9 (3) The number and percentage of third grade students retained for not
 10 demonstrating reading proficiency.

11 (4) The number and percentage of third grade students exempt from mandatory
 12 third grade retention by category of exemption as listed in
 13 G.S. 115C-83.1G(b).

14 (b) Each local board of education shall report annually in writing to the State Board of
 15 Education by September 1 of each year a description of all reading interventions provided to
 16 students who have been retained under G.S. 115C-83.1G(a).

17 (c) The State Board of Education shall establish a uniform format for local boards of
 18 education to report the required information listed in subsections (a) and (b) of this section and
 19 shall provide the format to local boards of education no later than 90 days prior to the annual
 20 due date. The State Board of Education shall compile annually this information and submit a
 21 State-level summary to the Governor, the President Pro Tempore of the Senate, the Speaker of
 22 the House of Representatives, and the Joint Legislative Education Oversight Committee by
 23 October 1 of each year, beginning with the 2014-2015 school year.

24 (d) The State Board of Education and the Department of Public Instruction shall
 25 provide technical assistance as needed to aid local school administrative units to implement all
 26 provisions of this Part."

27 **SECTION 7A.1.(c)** G.S. 115C-105.27(b)(1a) is repealed.

28 **SECTION 7A.1.(d)** G.S. 115C-105.41 reads as rewritten:

29 **"§ 115C-105.41. Students who have been placed at risk of academic failure; personal**
 30 **education plans.**

31 In order to implement Part 1A of Article 8 of this Chapter, ~~Local~~ local school
 32 administrative units shall identify students who are at risk for academic failure and who are not
 33 successfully progressing toward grade promotion and graduation, beginning ~~no later than the~~
 34 ~~fourth grade in kindergarten.~~ Identification shall occur as early as can reasonably be done and
 35 can be based on grades, observations, diagnostic and formative assessments, State assessments,
 36 and other factors, including reading on grade level, that impact student performance that
 37 teachers and administrators consider appropriate, without having to await the results of
 38 end-of-grade or end-of-course tests. No later than the end of the first quarter, or after a teacher
 39 has had up to nine weeks of instructional time with a student, a personal education plan for
 40 academic improvement with focused intervention and performance benchmarks shall be
 41 developed or updated for any student at risk of academic failure who is not performing at least
 42 at grade level, as identified by the State end-of-grade test and other factors noted above.
 43 Focused instructional supports and services, ~~reading intervention~~ interventions and accelerated
 44 activities should include ~~research-based best-evidence-based~~ practices that meet the needs of
 45 students and may include coaching, mentoring, tutoring, summer school, Saturday school, and
 46 extended days. Local school administrative units shall provide these activities free of charge to
 47 students. Local school administrative units shall also provide transportation free of charge to all
 48 students for whom transportation is necessary for participation in these activities.

49 Local school administrative units shall give notice of the personal education plan and a
 50 copy of the personal education plan to the student's parent or guardian. Parents should be
 51 included in the implementation and ongoing review of personal education plans.

52 Local school administrative units shall certify that they have complied with this section
 53 annually to the State Board of Education. The State Board of Education shall periodically
 54 review data on the progress of identified students and report to the Joint Legislative Education
 55 Oversight Committee.

56 No cause of action for monetary damages shall arise from the failure to provide or
 57 implement a personal education plan under this section."

58 **SECTION 7A.1.(e)** G.S. 115C-174.11(a) reads as rewritten:

1 "(a) ~~Assessment Instruments for First and Second Grades-Kindergarten, First, Second,~~
2 ~~and Third Grades.~~ – The State Board of Education shall ~~adopt~~ develop, adopt, and provide to
3 the local school administrative units developmentally appropriate individualized assessment
4 instruments consistent with the Basic Education Program and Part 1A of Article 8 of this
5 Chapter for the ~~first and second grades, rather than standardized tests-kindergarten, first,~~
6 ~~second, and third grades.~~ Local school administrative units ~~may~~ shall use these assessment
7 instruments provided to them by the State Board for ~~first and second grade students,~~
8 ~~kindergarten, first, second, and third grade students~~ to assess progress, diagnose difficulties,
9 and to inform instruction and remediation needs. ~~and~~ Local school administrative units shall not
10 use standardized tests for summative assessment of kindergarten, first, and second grade
11 students except as required as a condition of receiving federal grants."

12 **SECTION 7A.1.(f)** G.S. 115C-238.29F is amended by adding a new subsection to

13 read:

14 "(d1) Reading Proficiency and Student Promotion. –

15 (1) Students in the third grade shall be retained if the student fails to
16 demonstrate reading proficiency by reading at or above the third grade level
17 as demonstrated by the results of the State-approved standardized test of
18 reading comprehension administered to third grade students. The charter
19 school shall provide reading interventions to retained students to remediate
20 reading deficiency, which may include 90 minutes of daily, uninterrupted,
21 evidence-based reading instruction, accelerated reading classes, transition
22 classes containing third and fourth grade students, and summer reading
23 camps.

24 (2) Students may be exempt from mandatory retention in third grade for good
25 cause but shall continue to receive instructional supports and services and
26 reading interventions appropriate for their age and reading level. Good cause
27 exemptions shall be limited to the following:

28 a. Limited English Proficient students with less than two years of
29 instruction in an English as a Second Language program.

30 b. Students with disabilities, as defined in G.S. 115C-106.3(1), whose
31 individualized education program indicates the use of alternative
32 assessments and reading interventions.

33 c. Students who demonstrate reading proficiency appropriate for third
34 grade students on an alternative assessment of reading
35 comprehension. The charter school shall notify the State Board of
36 Education of the alternative assessment used to demonstrate reading
37 proficiency.

38 d. Students who demonstrate, through a student reading portfolio,
39 reading proficiency appropriate for third grade students.

40 e. Students who have (i) received reading intervention and (ii)
41 previously been retained more than once in kindergarten, first,
42 second, or third grades.

43 (3) The charter school shall provide notice to parents and guardians when a
44 student is not reading at grade level. The notice shall state that if the
45 student's reading deficiency is not remediated by the end of third grade, the
46 student shall be retained unless he or she is exempt from mandatory
47 retention for good cause. Notice shall also be provided to parents and
48 guardians of any student who is to be retained under this subsection of the
49 reason the student is not eligible for a good cause exemption, as well as a
50 description of proposed reading interventions that will be provided to the
51 student to remediate identified areas of reading deficiency.

52 (4) The charter school shall annually publish on the charter school's Web site
53 and report in writing to the State Board of Education by September 1 of each
54 year the following information on the prior school year:

55 a. The number and percentage of third grade students demonstrating
56 and not demonstrating reading proficiency on the State-approved
57 standardized test of reading comprehension administered to third
58 grade students.

- 1 b. The number and percentage of third grade students not demonstrating
 2 reading proficiency and who do not return to the charter school for
 3 the following school year.
 4 c. The number and percentage of third grade students who take and
 5 pass the alternative assessment of reading comprehension.
 6 d. The number and percentage of third grade students retained for not
 7 demonstrating reading proficiency.
 8 e. The number and percentage of third grade students exempt from
 9 mandatory third grade retention by category of exemption as listed in
 10 subdivision (2) of this subsection."

11 **SECTION 7A.1.(g)** G.S. 115C-288(a) reads as rewritten:

12 "(a) To Grade and Classify Pupils. – The principal shall have authority to grade and
 13 classify ~~pupils~~pupils, except as provided in G.S. 115C-83.1G(a). In determining the appropriate
 14 grade for a pupil who is already attending a public school, the principal shall consider the
 15 pupil's classroom work and grades, the pupil's scores on standardized tests, and the best
 16 educational interests of the pupil. The principal shall not make the decision solely on the basis
 17 of standardized test scores. If a principal's decision to retain a child in the same grade is
 18 partially based on the pupil's scores on standardized tests, those test scores shall be verified as
 19 accurate.

20 A principal shall not require additional testing of a student entering a public school from a
 21 school governed under Article 39 of this Chapter if test scores from a nationally standardized
 22 test or nationally standardized equivalent measure that are adequate to determine the
 23 appropriate placement of the child are available."

24 **SECTION 7A.1.(h)** G.S. 130A-440(b) reads as rewritten:

25 "(b) A health assessment shall include a medical history and physical examination with
 26 screening for vision and hearing and, if appropriate, testing for anemia and tuberculosis. Vision
 27 screening shall be conducted in accordance with G.S. 130A-440.1. The health assessment may
 28 also include dental screening and developmental screening for cognition, language, and motor
 29 function. The developmental screening of cognition and language abilities may be conducted in
 30 accordance with G.S. 115C-83.1E(a)."

31 **SECTION 7A.1.(i)** Of the funds appropriated from the General Fund to the
 32 Department of Public Instruction for the 2012-2013 fiscal year, the sum of thirty-three million
 33 nine hundred fourteen thousand five hundred three dollars (\$33,914,503) shall be used to
 34 implement the requirements of this section. It is the intent of the General Assembly to increase
 35 this appropriation for the 2013-2014 fiscal year to implement additional requirements in that
 36 fiscal year.

37 **SECTION 7A.1.(j)** This section is effective when it becomes law and applies
 38 beginning with the 2013-2014 school year. The developmental screening and kindergarten
 39 entry assessment required by this section shall be administered beginning with the 2014-2015
 40 school year.

41
 42 **STATE EMPLOYEE LITERACY VOLUNTEER LEAVE TIME**

43 **SECTION 7A.2.(a)** G.S. 126-4 reads as rewritten:

44 **"§ 126-4. Powers and duties of State Personnel Commission.**

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

- 47 ...
 48 (5b) A leave program that allows employees to volunteer in a literacy program in
 49 a public school for up to five hours each month.

50 "

51 **SECTION 7A.2.(b)** This section is effective when it becomes law.

52
 53 **SCHOOL PERFORMANCE GRADES**

54 **SECTION 7A.3.(a)** G.S. 115C-12(9)c1. reads as rewritten:

- 55 "c1. To issue an annual "report card" for the State and for each local
 56 school administrative unit, assessing each unit's efforts to improve
 57 student performance based on the growth in performance of the
 58 students in each school and taking into account progress over the
 59 previous years' level of performance and the State's performance in

1 comparison with other states. This assessment shall take into account
2 factors that have been shown to affect student performance and that
3 the State Board considers relevant to assess the State's efforts to
4 improve student performance. As a part of the annual "report card"
5 for each local school administrative unit, the State Board shall award
6 an overall numerical school performance score on a scale of zero to
7 100 and a corresponding letter grade of A, B, C, D, or F earned by
8 each school within the local school administrative unit. The school
9 performance score and grade shall reflect student performance on
10 annual subject-specific assessments, college and workplace readiness
11 measures, and graduation rates. For schools serving students in any
12 grade from kindergarten to eighth grade, separate performance scores
13 and grades shall also be awarded based on the school performance in
14 reading and mathematics respectively. The annual "report card" for
15 schools serving students in third grade also shall include the number
16 and percentage of third grade students who (i) take and pass the
17 alternative assessment of reading comprehension; (ii) were retained
18 in third grade for not demonstrating reading proficiency as indicated
19 in G.S. 115C-83.1G(a); and (iii) were exempt from mandatory third
20 grade retention by category of exemption as listed in
21 G.S. 115C-83.1G(b)."

22 **SECTION 7A.3.(b)** G.S. 115C-47(58) reads as rewritten:

23 "(58) To Inform the Public About the North Carolina School Report Cards Issued
24 by the State Board of Education. – Each local board of education shall
25 ensure that the report card issued for it by the State Board of Education
26 receives wide distribution to the local press or ~~otherwise is~~ otherwise
27 provided to the public. Each local board of education shall ensure that the
28 overall school performance score and grade earned by each school in the
29 local school administrative unit for the current and previous four school
30 years is prominently displayed on the Web site of the local school
31 administrative unit. If any school in the local school administrative unit is
32 awarded a grade of D or F, the local board of education shall provide notice
33 of the grade in writing to the parent or guardian of all students enrolled in
34 that school."

35 **SECTION 7A.3.(c)** G.S. 115C-238.29F is amended by adding a new subsection to
36 read:

37 "(1) North Carolina School Report Cards. – A charter school shall ensure that the report
38 card issued for it by the State Board of Education receives wide distribution to the local press
39 or is otherwise provided to the public. A charter school shall ensure that the overall school
40 performance score and grade earned by the charter school for the current and previous four
41 school years is prominently displayed on the school Web site. If a charter school is awarded a
42 grade of D or F, the charter school shall provide notice of the grade in writing to the parent or
43 guardian of all students enrolled in that school."

44 **SECTION 7A.3.(d)** G.S. 115C-238.66 is amended by adding a new subdivision to
45 read:

46 "(11) North Carolina School Report Cards. – A regional school shall ensure that
47 the report card issued for it by the State Board of Education receives wide
48 distribution to the local press or is otherwise provided to the public. A
49 regional school shall ensure that the overall school performance score and
50 grade earned by the regional school for the current and previous four school
51 years is prominently displayed on the school Web site. If a regional school is
52 awarded a grade of D or F, the regional school shall provide notice of the
53 grade in writing to the parent or guardian of all students enrolled in that
54 school."

55 **SECTION 7A.3.(e)** The State Board of Education shall award school performance
56 scores and grades as required by G.S. 115C-12(9)c1. as follows:

57 (1) The State Board of Education shall calculate school performance scores by
58 totaling the sum of points earned by the school and converting the sum of
59 points to a 100-point scale. Subsections (2) and (3) of this section provide

- 1 the school performance elements for schools serving students in
2 kindergarten through eighth grade. Subsection (4) of this section provides
3 the school performance elements for schools serving grades nine through
4 twelve. The school performance score shall be used to determine the school
5 performance grade based on the following scale:
- 6 a. At least 90 performance grade points for an overall school
7 performance grade of A.
 - 8 b. At least 80 performance grade points for an overall school
9 performance grade of B.
 - 10 c. At least 70 performance grade points for an overall school
11 performance grade of C.
 - 12 d. At least 60 performance grade points for an overall school
13 performance grade of D.
 - 14 e. A school that accumulates less than 60 points shall be assigned an
15 overall school performance grade of F.
- 16 (2) For schools serving students in kindergarten through eighth grade the overall
17 school performance score shall be calculated based on the sum of three
18 school performance elements.
- 19 a. The score shall be calculated as follows:
 - 20 1. One point for each percent of students who score at or above
21 proficient on annual assessments for mathematics in grades
22 three through eight.
 - 23 2. One point for each percent of students who score at or above
24 proficient on annual assessments for reading in grades three
25 through eight.
 - 26 3. One point for each percent of students who score at or above
27 proficient on annual assessments for science in grades five
28 and eight.
 - 29 (3) For schools serving students in kindergarten through eighth grade, the school
30 performance scores in reading and mathematics, respectively, shall be
31 earned as follows:
 - 32 a. The literacy school performance score shall be based on the percent
33 of students who score at or above proficient on annual assessments
34 for reading assessments in grades three through eight.
 - 35 b. The mathematics school performance score shall be based on the
36 percent of students who score at or above proficient on annual
37 assessments for mathematics in grades three through eight.
 - 38 (4) The school performance score earned by schools serving students in ninth
39 through twelfth grades shall be calculated based on the sum of seven school
40 performance elements.
 - 41 a. The score shall be calculated as follows:
 - 42 1. One point for each percent of students who score at or above
43 proficient on annual assessments for mathematics.
 - 44 2. One point for each percent of students who score at or above
45 proficient on annual assessments for English.
 - 46 3. One point for each percent of students who score at or above
47 proficient on annual assessments for biology.
 - 48 4. One point for each percent of students who complete a
49 higher-level mathematics class with a passing grade.
 - 50 5. One point for each percent of students who score at or above
51 a level demonstrating college readiness on a nationally
52 normed test of college readiness.
 - 53 6. One point for each percent of students who graduate within
54 four years of entering high school.
 - 55 7. One point for each percent of students who demonstrate
56 workplace readiness on a nationally normed test of workplace
57 readiness.
 - 58 (5) In calculating the overall school performance score earned by schools, the
59 State Board of Education shall proportionally adjust the scale to account for

1 the absence of a school performance element for award of scores to a school
2 that does not have a measure of one of the school performance elements
3 annually assessed for the grades taught at that school.

- 4 (6) The State Board of Education shall report to the Joint Legislative Education
5 Oversight Committee annually by January 15 on recommended adjustments
6 to the school performance grade elements and scales for award of scores and
7 grades.

8 **SECTION 7A.3.(f)** This section is effective when it becomes law and applies
9 beginning with the 2012-2013 school year.

10 **MAXIMIZE INSTRUCTIONAL TIME**

11 **SECTION 7A.4.(a)** G.S. 115C-174.12(a) reads as rewritten:

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

- 17 (1) Schools shall devote no more than two days of instructional time per year to
18 the taking of practice tests that do not have the primary purpose of assessing
19 current student learning;
20 (2) Students in a school shall not be subject to field tests or national tests during
21 the two-week period preceding the administration of end-of-grade tests,
22 end-of-course tests, or the school's regularly scheduled final exams; and
23 (3) No school shall participate in more than two field tests at any one grade level
24 during a school year ~~unless that school volunteers, through a vote of its~~
25 ~~school improvement team, to participate in an expanded number of field~~
26 ~~tests-year.~~
27 (4) All annual assessments of student achievement adopted by the State Board
28 of Education pursuant to G.S. 115C-174.11(c)(1) and (3) and all final exams
29 for courses shall be administered within the final 10 instructional days of the
30 school year for year-long courses and within the final five instructional days
31 of the semester for semester courses. Exceptions shall be permitted to
32 accommodate a student's individualized education program and section 504
33 (29 U.S.C. § 794) plans, and for the administration of final exams for
34 courses with national or international curriculums required to be held at
35 designated times.

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

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

48 **SECTION 7A.4.(b)** This section is effective when it becomes law and applies
49 beginning with the 2012-2013 school year.

50 **ADJUSTMENTS TO SCHOOL CALENDAR**

51 **SECTION 7A.5.(a)** G.S. 115C-84.2 reads as rewritten:

52 **"§ 115C-84.2. School calendar.**

53 (a) School Calendar. – Each local board of education shall adopt a school calendar
54 consisting of 215 days all of which shall fall within the fiscal year. A school calendar shall
55 include the following:

- 56 (1) A minimum of 185 days ~~and or~~ 1,025 hours of instruction covering at least
57 nine calendar months. The local board shall designate when the ~~185~~

1 instructional days shall occur. The number of instructional hours in an
 2 instructional day may vary according to local board policy and does not have
 3 to be uniform among the schools in the administrative unit. Local boards
 4 may approve school improvement plans that include days with varying
 5 amounts of instructional time. If school is closed early due to inclement
 6 weather, the day and the scheduled amount of instructional hours may count
 7 towards the required minimum to the extent allowed by State Board policy.
 8 The school calendar shall include a plan for making up days and
 9 instructional hours missed when schools are not opened due to inclement
 10 weather.

11 ...
 12 (4a) Three days, as designated by the local board, for use as teacher workdays.
 13 These days shall be protected to allow teachers to complete instructional and
 14 classroom administrative duties. The local school administrative unit shall
 15 not impose any additional tasks on these days. The local board shall
 16 schedule at least one of these days at the beginning of the school year and at
 17 least one at the end of the school year.

18 (5) The remaining days scheduled by the local board in consultation with each
 19 school's principal for use as teacher workdays, additional instructional days,
 20 or other lawful purposes. Before consulting with the local board, each
 21 principal shall work with the school improvement team to determine the
 22 days to be scheduled and the purposes for which they should be scheduled.
 23 Days may be scheduled and planned for different purposes for different
 24 personnel and there is no requirement to schedule the same dates for all
 25 personnel. In order to make up days for school closing because of inclement
 26 weather, the local board may designate any of the days in this subdivision as
 27 additional make-up days to be scheduled after the last day of student
 28 attendance.

29 ~~If the State Board of Education finds that it will enhance student performance to do so, the~~
 30 ~~State Board may grant a local board of education a waiver to use up to five of the instructional~~
 31 ~~days required by subdivision (1) of this subsection as teacher workdays. For each instructional~~
 32 ~~day waived, the State Board shall waive an equivalent number of instructional hours.~~

33 Local boards and individual schools are encouraged to use the calendar flexibility in order
 34 to meet the annual performance standards set by the State Board. Local boards of education
 35 shall consult with parents and the employed public school personnel in the development of the
 36 school calendar.

37 Local boards shall designate at least two days scheduled under subdivision (5) of this
 38 subsection as days on which teachers may take accumulated vacation leave. Local boards may
 39 designate the remaining days scheduled in subdivision (5) of this subsection as days on which
 40 teachers may take accumulated vacation leave, but local boards shall give teachers at least 14
 41 calendar days' notice before requiring a teacher to work instead of taking vacation leave on any
 42 of these days. A teacher may elect to waive this notice requirement for one or more of these
 43 days.

44 ...
 45 (d) Opening and Closing Dates. – Local boards of education shall determine the dates
 46 of opening and closing the public schools under subdivision (a)(1) of this section. Except for
 47 year-round schools, the opening date for students shall ~~not be before August 25, be no earlier~~
 48 than the Monday closest to August 26, and the closing date for students shall not be after June
 49 10, be no later than the Friday closest to June 11. On a showing of good cause, the State Board
 50 of Education may waive this requirement the requirement that the opening date for students be
 51 no earlier than the Monday closest to August 26 and may allow the local board of education to
 52 set an opening date no earlier than the Monday closest to August 19, to the extent that school
 53 calendars are able to provide sufficient days to accommodate anticipated makeup days due to
 54 school closings. A local board may revise the scheduled closing date if necessary in order to
 55 comply with the minimum requirements for instructional days or instructional time. For
 56 purposes of this subsection, the term "good cause" means either that that schools in any local
 57 school administrative unit in a county have been closed eight days per year during any four of
 58 the last 10 years because of severe weather conditions, energy shortages, power failures, or
 59 other emergency situations.

- 1 (1) ~~Schools in any local school administrative unit in a county have been closed~~
 2 ~~eight days per year during any four of the last 10 years because of severe~~
 3 ~~weather conditions, energy shortages, power failures, or other emergency~~
 4 ~~situations; or~~
 5 (2) ~~Schools in any local school administrative unit in a county have been closed~~
 6 ~~for all or part of eight days per year during any four of the last 10 years~~
 7 ~~because of severe weather conditions. For purposes of this subdivision, a~~
 8 ~~school shall be deemed to be closed for part of a day if it is closed for two or~~
 9 ~~more hours.~~

10 The State Board also may waive this requirement for an educational purpose. The term
 11 "educational purpose" means a local school administrative unit establishes a need to adopt a
 12 different calendar for (i) a specific school to accommodate a special program offered generally
 13 to the student body of that school, (ii) a school that primarily serves a special population of
 14 students, or (iii) a defined program within a school. The State Board may grant the waiver for
 15 an educational purpose for that specific school or defined program to the extent that the State
 16 Board finds that the educational purpose is reasonable, the accommodation is necessary to
 17 accomplish the educational purpose, and the request is not an attempt to circumvent the
 18 opening and closing dates set forth in this subsection. The waiver requests for educational
 19 purposes shall not be used to accommodate system-wide class scheduling preferences.

20 The required opening and closing dates under this subsection shall not apply to any school
 21 that a local board designated as having a modified calendar for the 2003-2004 school year or to
 22 any school that was part of a planned program in the 2003-2004 school year for a system of
 23 modified calendar schools, so long as the school operates under a modified calendar.

24 "

25 **SECTION 7A.5.(b)** G.S. 115C-238.29F(d)(1) reads as rewritten:

- 26 "(1) The school shall provide instruction each year for at least 185 ~~days~~ days or
 27 1,025 hours over nine calendar months. ~~If the State Board of Education finds~~
 28 ~~that it will enhance student performance to do so, the State Board may grant~~
 29 ~~a charter school a waiver to use up to five of these instructional days as~~
 30 ~~teacher workdays."~~

31 **SECTION 7A.5.(c)** G.S. 115C-238.53(d) reads as rewritten:

32 "(d) A program approved under this Part shall provide instruction each school year for at
 33 least ~~180 days~~ 185 days or 1,025 instructional hours during nine calendar months, shall comply
 34 with laws and policies relating to the education of students with disabilities, and shall comply
 35 with Article 27 of this Chapter. The requirements of G.S. 115C-84.2 shall not apply to the
 36 school calendar of a program approved under this Part."

37 **SECTION 7A.5.(d)** G.S. 115C-238.66(1)d. reads as rewritten:

- 38 "d. The board of directors shall adopt a school calendar consisting of a
 39 minimum of 185 days or 1,025 hours of instruction covering at least
 40 nine calendar months."

41 **SECTION 7A.5.(e)** This section is effective when it becomes law and applies
 42 beginning with the 2013-2014 school year.

43 44 **FUNDING FOR THE ADDITION OF FIVE INSTRUCTIONAL DAYS WITHIN THE** 45 **EXISTING SCHOOL CALENDAR**

46 **SECTION 7A.6.(a)** To fully provide for the expansion of five additional
 47 instructional days in accordance with S.L. 2011-145, Section 7.29 for those days for which a
 48 local school administrative unit has not requested and received a waiver from the State Board
 49 of Education for the 2012-2013 school year:

- 50 (1) Of the funds appropriated from the General Fund to the Department of
 51 Public Instruction for the 2012-2013 fiscal year, the sum of forty thousand
 52 one hundred sixty-eight dollars (\$40,168) shall be used to increase the
 53 amount appropriated for the noninstructional support personnel allotment.
 54 (2) Of the funds appropriated from the General Fund to the Department of
 55 Public Instruction for the 2012-2013 fiscal year, the sum of three hundred
 56 fifty-one thousand four hundred sixty-nine dollars (\$351,469) shall be used
 57 to increase the amount appropriated for the transportation allotment.

58 **SECTION 7A.6.(b)** This section becomes effective July 1, 2012.

ESTABLISH NC TEACHER CORPS

SECTION 7A.7.(a) Article 20 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ 115C-296.7. North Carolina Teacher Corps.

(a) There is established the North Carolina Teacher Corps (NC Teacher Corps) to recruit and place recent graduates of colleges and universities and mid-career professionals as teachers in high needs public schools.

(b) The State Board of Education, in consultation with the Board of Governors of The University of North Carolina and the North Carolina Independent Colleges and Universities, shall develop and administer the NC Teacher Corps. In the development of the NC Teacher Corps, the State Board of Education shall consider examples of other successful teacher recruitment models used nationally and in other states.

(c) Applications shall be received annually for admission to the NC Teacher Corps. The State Board of Education shall establish application criteria, including, at a minimum, an award of a bachelor's degree from an accredited college or university. The State Board of Education may establish a committee to annually evaluate and select candidates for admission to the NC Teacher Corps.

(d) The State Board of Education shall identify local school administrative units with unmet recruitment needs and high needs schools and shall coordinate placement of NC Teacher Corps members in those schools.

(e) The State Board of Education, in coordination with the Board of Governors, shall develop an intensive summer training institute for NC Teacher Corps members to provide coursework and training on essential teaching frameworks, curricula, and lesson planning skills, as well as identification and education of students with disabilities, positive management of student behavior, effective communication for defusing and deescalating disruptive and dangerous behavior, and safe and appropriate use of seclusion and restraint. The intensive summer training institute also shall address identification of difficulty with reading development and of reading deficiencies, and the provision of reading instruction, intervention, and remediation strategies.

(f) The State Board of Education, in coordination with the Board of Governors, shall provide ongoing support to NC Teaching Corps members through coaching, mentoring, and continued professional development.

(g) NC Teaching Corps members shall be granted lateral entry teaching licenses pursuant to G.S. 115C-296(c)."

SECTION 7A.7.(b) This section is effective when it becomes law. The State Board of Education shall recruit and place an initial cohort of NC Teacher Corps members no later than the 2012-2013 school year.

STRENGTHEN TEACHER LICENSURE

SECTION 7A.8.(a) G.S. 115C-296 reads as rewritten:

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

(a) The State Board of Education shall have entire control of licensing all applicants for teaching positions in all public elementary and high schools of North Carolina; and it shall prescribe the rules and regulations for the renewal and extension of all licenses and shall determine and fix the salary for each grade and type of license which it authorizes.

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

1 (b) It is the policy of the State of North Carolina to maintain the highest quality teacher
2 education programs and school administrator programs in order to enhance the competence of
3 professional personnel licensed in North Carolina. To the end that teacher preparation programs
4 are upgraded to reflect a more rigorous course of study, the State Board of Education, as lead
5 agency in coordination and cooperation with the University Board of Governors, the Board of
6 Community Colleges and such other public and private agencies as are necessary, shall
7 continue to refine the several licensure requirements, standards for approval of institutions of
8 teacher education, standards for institution-based innovative and experimental programs,
9 standards for implementing consortium-based teacher education, and standards for improved
10 efficiencies in the administration of the approved programs. The licensure program shall
11 provide for initial licensure after completion of preservice training, continuing licensure after
12 three years of teaching experience, and license renewal every five years thereafter, until the
13 retirement of the teacher. The last license renewal received prior to retirement shall remain in
14 effect for five years after retirement. The licensure program shall also provide for lifetime
15 licensure after 50 years of teaching.

16 The State Board of Education, as lead agency in coordination with the Board of Governors
17 of The University of North Carolina and any other public and private agencies as necessary,
18 shall continue to raise standards for entry into teacher education programs.

19 The State Board of Education, in consultation with local boards of education and the Board
20 of Governors of The University of North Carolina, shall evaluate and modify, as necessary, the
21 academic requirements for students preparing to teach science in middle and high schools to
22 ensure that there is adequate preparation in issues related to science laboratory safety.

23 The State Board of Education, in consultation with the Board of Governors of The
24 University of North Carolina, shall evaluate and develop enhanced requirements for continuing
25 licensure. The new requirements shall reflect more rigorous standards for continuing licensure
26 and to the extent possible shall be aligned with quality professional development programs that
27 reflect State priorities for improving student achievement. Standards for continuing licensure
28 shall include at least three continuing education credits related to literacy for elementary and
29 middle school teachers. Literacy renewal credits shall include assessment, diagnosis, and
30 intervention strategies for students not demonstrating reading proficiency. Oral language,
31 phonemic and phonological awareness, phonics, vocabulary, fluency, and comprehension shall
32 be addressed in literacy-related activities leading to certification renewal for elementary school
33 teachers.

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

40 The standards for approval of institutions of teacher education shall require that teacher
41 education programs for all students include demonstrated competencies in (i) the identification
42 and education of children with disabilities and (ii) positive management of student behavior
43 and effective communication techniques for defusing and deescalating disruptive or dangerous
44 behavior. The standards for approval of institutions of teacher education shall require that
45 elementary teacher education programs include demonstrated competencies in (i) teaching of
46 reading, including a substantive understanding of reading as a process involving oral language,
47 phonological and phonemic awareness, phonics, fluency, vocabulary, and comprehension; (ii)
48 evidence-based assessment and diagnosis of specific areas of difficulty with reading
49 development and of reading deficiencies; and (iii) appropriate application of instructional
50 supports and services and reading interventions to ensure reading proficiency for all students.
51 The State Board of Education shall incorporate the criteria developed in accordance with
52 G.S. 116-74.21 for assessing proposals under the School Administrator Training Program into
53 its school administrator program approval standards.

54 All North Carolina institutions of higher education that offer teacher education programs,
55 masters degree programs in education, or masters degree programs in school administration
56 shall provide performance reports to the State Board of Education. The performance reports
57 shall follow a common format, shall be submitted according to a plan developed by the State
58 Board, and shall include the information required under the plan developed by the State Board.

59 ...

1 (c) It is the policy of the State of North Carolina to encourage lateral entry into the
2 profession of teaching by skilled individuals from the private sector. To this end, before the
3 1985-86 school year begins, the State Board of Education shall develop criteria and procedures
4 to accomplish the employment of such individuals as classroom teachers. Beginning with the
5 2006-2007 school year, the criteria and procedures shall include preservice training in (i) the
6 identification and education of children with disabilities and (ii) positive management of
7 student behavior, effective communication for defusing and deescalating disruptive or
8 dangerous behavior, and safe and appropriate use of seclusion and restraint. Skilled individuals
9 who choose to enter the profession of teaching laterally may be granted a ~~provisional~~lateral
10 entry teaching license for no more than three years and shall be required to obtain licensure
11 before contracting for a fourth year of service with any local administrative unit in this State.

12"

13 **SECTION 7A.8.(b)** This section is effective when it becomes law and applies
14 beginning with the 2013-2014 school year.

15 **PROOF OF STATE-FUNDED LIABILITY INSURANCE**

16 **SECTION 7A.9.(a)** G.S. 115C-12 reads as rewritten:

17 "**§ 115C-12. Powers and duties of the Board generally.**

18 The general supervision and administration of the free public school system shall be vested
19 in the State Board of Education. The State Board of Education shall establish policy for the
20 system of free public schools, subject to laws enacted by the General Assembly. The powers
21 and duties of the State Board of Education are defined as follows:

22 ...

23 (9) Miscellaneous Powers and Duties. – All the powers and duties exercised by
24 the State Board of Education shall be in conformity with the Constitution
25 and subject to such laws as may be enacted from time to time by the General
26 Assembly. Among such duties are:

27 ...

28 f. To annually notify public school employees of the availability and
29 coverage of professional liability insurance.

30"

31 **SECTION 7A.9.(b)** This section is effective when it becomes law and applies
32 beginning with the 2012-2013 school year.

33 **PAY FOR EXCELLENCE**

34 **SECTION 7A.10.(a)** Each local board of education shall develop a plan of
35 performance pay for all licensed personnel employed by the local board. Under the
36 performance pay plan, licensed employees should be eligible to receive bonuses or adjustments
37 to base salary for meeting certain performance criteria. Criteria for award of bonuses or
38 adjustments to base salary should include, but are not limited to, the following factors:

- 39 (1) Annual growth in student achievement of students assigned to a teacher's
40 classroom, when applicable.
- 41 (2) Annual growth in student achievement of students assigned to a specific
42 school.
- 43 (3) Assignment of additional academic responsibilities.
- 44 (4) Assignment to a hard-to-staff school.
- 45 (5) Assignment to a hard-to-staff subject area.

46 Local boards of education shall submit plans to the State Board of Education no
47 later than March 1, 2013. The State Board of Education shall report on these plans and the
48 achievement-based compensation models developed as part of the federal Race to the Top grant
49 and shall submit the report and all plans to the Fiscal Research Division, the Joint Legislative
50 Commission on Governmental Operations, and the respective Subcommittees on Education
51 Appropriations of the Senate and House of Representatives no later than April 15, 2013.
52 Members of the public may also submit plans for performance pay no later than April 15, 2013,
53 to the Fiscal Research Division, the Joint Legislative Commission on Governmental
54 Operations, and the respective Subcommittees on Education Appropriations of the Senate and
55 House of Representatives.

56 **SECTION 7A.10.(b)** This section is effective when it becomes law.

CLARIFY NC PRE-K PROGRAM ELIGIBILITY

SECTION 7A.11.(a) Section 10.7(f) of S.L. 2011-145 reads as rewritten:

"SECTION 10.7.(f) ~~The prekindergarten program may continue to serve at-risk children identified through the existing "child find" methods in which at-risk children are currently served within the Division of Child Development. The Division of Child Development shall serve at-risk children regardless of income. However, the total number of at-risk children served shall constitute no more than twenty percent (20%) of the four-year-olds served within the prekindergarten program. Any~~ The Division of Child Development and Early Education shall establish income eligibility requirements for the program not to exceed seventy-five percent (75%) of the State median income. Up to twenty percent (20%) of children enrolled may have family incomes in excess of seventy-five percent (75%) of median income if they have other designated risk factors. Furthermore, any age-eligible child who is a child of either of the following shall be eligible for the program: (i) an active duty member of the Armed Forces of the United States, including the North Carolina National Guard, State military forces, or a reserve component of the Armed Forces, who was ordered to active duty by the proper authority within the last 18 months or is expected to be ordered within the next 18 months or (ii) a member of the Armed Forces of the United States, including the North Carolina National Guard, State military forces, or a reserve component of the Armed Forces, who was injured or killed while serving on active duty. Eligibility determinations for prekindergarten participants may continue through local education agencies and local North Carolina Partnership for Children, Inc., partnerships."

SECTION 7A.11.(b) Section 10.7(h) of S.L. 2011-145 is repealed.

SECTION 7A.11.(c) Of the funds appropriated from the General Fund to the Department of Health and Human Services, Division of Child Development and Early Education, for the 2012-2013 fiscal year, the sum of eleven million three hundred eight thousand three hundred sixty-three dollars (\$11,308,363) shall be used to add 2,261 slots to be used in the NC Pre-K program.

SECTION 7A.11.(d) This section is effective when it becomes law.

REPEAL PROHIBITION ON TEACHER PREPAYMENT

SECTION 7A.12.(a) Section 5 of S.L. 2011-379 is repealed.

SECTION 7A.12.(b) This section becomes effective July 1, 2012.

TAX DEDUCTION FOR EDUCATIONAL SUPPLIES

SECTION 7A.13.(a) G.S. 105-134.6(d) is amended by adding a new subdivision to read:

"(d) Other Adjustments. – The following adjustments to taxable income shall be made in calculating North Carolina taxable income:

...

(9) To the extent a deduction has not been claimed for educator expenses in determining federal adjusted gross income, an eligible educator may deduct an amount not to exceed two hundred fifty dollars (\$250.00) paid or incurred in connection with items listed in this subdivision. For purposes of this subdivision, the term "eligible educator" has the same meaning as defined in section 62 of the Code, as it existed on December 31, 2011. In the case of a married couple filing a joint return where both spouses are eligible educators, the maximum dollar amount is five hundred dollars (\$500.00).

a. Books.

b. Supplies, other than nonathletic supplies for courses of instruction in health or physical education.

c. Computer equipment, including related software and services.

d. Supplementary materials used by the eligible educator in the classroom."

SECTION 7A.13.(b) This section becomes effective for taxable years beginning on or after January 1, 2012.

TEACHER CONTRACTS

SECTION 7A.14.(a) G.S. 115C-325 is repealed.

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

32 **"§ 115C-325.2. Personnel files.**

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

46 (b) Inspection of Personnel Files. – The personnel file shall be open for the teacher's
47 inspection at all reasonable times but shall be open to other persons only in accordance with
48 such rules and regulations as the board adopts. Any preemployment data or other information
49 obtained about a teacher before the teacher's employment by the board may be kept in a file
50 separate from the teacher's personnel file and need not be made available to the teacher. No
51 data placed in the preemployment file may be introduced as evidence at a hearing on the
52 dismissal or demotion of a teacher, except the data may be used to substantiate
53 G.S. 115C-325.4(a)(7) or G.S. 115C-325.4(a)(14) as grounds for dismissal or demotion.

54 **"§ 115C-325.3. Teacher contracts.**

55 (a) Length of Contract. – A contract between the local board of education and a teacher
56 who has been employed by the local board of education for less than three years shall be for a
57 term of one school year. A contract or renewal of contract between the local board of education
58 and a teacher who has been employed by the local board of education for three years or more
59 shall be for a term of one, two, three, or four school years.

1 (b) Superintendent Recommendation to Local Board. – Local boards of education shall
2 employ teachers upon the recommendation of the superintendent. If a superintendent intends to
3 recommend to the local board of education that a teacher be offered a new or renewed contract,
4 the superintendent shall submit the recommendation to the local board for action and shall
5 include in the recommendation the length of the term of contract. A superintendent shall only
6 recommend a teacher for a contract of a term longer than one school year if the teacher has
7 shown effectiveness as demonstrated on the teacher evaluation instrument. The local board may
8 approve the superintendent's recommendation, may decide not to offer the teacher a new or
9 renewed contract, or may decide to offer the teacher a renewed contract for a different term
10 than recommended by the superintendent.

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

14 (d) Recommendation on Nonrenewal. – If a superintendent decides not to recommend
15 that the local board of education offer a renewed contract to a teacher, the superintendent shall
16 give the teacher written notice of the decision no later than May 15.

17 (e) Right to Petition for Hearing. – A teacher shall have the right to petition the local
18 board of education for a hearing no later than June 1. The local board may, in its discretion,
19 grant a hearing regarding the superintendent's recommendation for nonrenewal. The local board
20 of education shall notify the teacher making the petition of its decision whether to grant a
21 hearing. If the request for a hearing is granted, the local board shall conduct a hearing pursuant
22 to the provisions of G.S. 115C-45(c) and make a final decision on whether to offer the teacher a
23 renewed contract. The board shall notify a teacher whose contract will not be renewed for the
24 next school year of its decision by June 15; provided, however, if a teacher submits a request
25 for a hearing, the board shall provide the nonrenewal notification by July 1 or such later date
26 upon the written consent of the superintendent and teacher. A decision not to offer a teacher a
27 renewed contract shall not be on any basis prohibited by State or federal law.

28 (f) Local boards of education and teachers employed by the local board may mutually
29 modify the terms of the contract to permit part-time employment.

30 **"§ 115C-325.4. Dismissal or demotion for cause.**

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

34 (1) Inadequate performance. In determining whether the professional
35 performance of a teacher is adequate, consideration shall be given to regular
36 and special evaluation reports prepared in accordance with the published
37 policy of the employing local school administrative unit and to any
38 published standards of performance which shall have been adopted by the
39 board. Inadequate performance for a teacher shall mean (i) the failure to
40 perform at a proficient level on any standard of the evaluation instrument or
41 (ii) otherwise performing in a manner that is below standard.

42 (2) Immorality.

43 (3) Insubordination.

44 (4) Neglect of duty.

45 (5) Physical or mental incapacity.

46 (6) Habitual or excessive use of alcohol or nonmedical use of a controlled
47 substance as defined in Article 5 of Chapter 90 of the General Statutes.

48 (7) Conviction of a felony or a crime involving moral turpitude.

49 (8) Advocating the overthrow of the government of the United States or of the
50 State of North Carolina by force, violence, or other unlawful means.

51 (9) Failure to fulfill the duties and responsibilities imposed upon teachers or
52 school administrators by the General Statutes of this State.

53 (10) Failure to comply with such reasonable requirements as the board may
54 prescribe.

55 (11) Any cause which constitutes grounds for the revocation of the teacher's
56 teaching license or the school administrator's administrator license.

57 (12) Failure to maintain his or her license in a current status.

58 (13) Failure to repay money owed to the State in accordance with the provisions
59 of Article 60 of Chapter 143 of the General Statutes.

1 (14) Providing false information or knowingly omitting a material fact on an
2 application for employment or in response to a preemployment inquiry.

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

6 **§ 115C-325.5. Teacher suspension.**

7 (a) Immediate Suspension Without Pay. – If a superintendent believes that cause exists
8 for dismissing a teacher for any reason specified in G.S. 115C-325.4 and that immediate
9 suspension of the teacher is necessary, the superintendent may suspend the teacher without pay.
10 Before suspending a teacher without pay, the superintendent shall meet with the teacher and
11 give him or her written notice of the charges against the teacher, an explanation of the basis for
12 the charges, and an opportunity to respond. Within five days after a suspension under this
13 paragraph, the superintendent shall initiate a dismissal, demotion, or disciplinary suspension
14 without pay as provided in this section. If it is finally determined that no grounds for dismissal,
15 demotion, or disciplinary suspension without pay exist, the teacher shall be reinstated
16 immediately, shall be paid for the period of suspension, and all records of the suspension shall
17 be removed from the teacher's personnel file.

18 (b) Disciplinary Suspension Without Pay. – A teacher recommended for disciplinary
19 suspension without pay may request a hearing before the board. If no request is made within 15
20 days, the superintendent may file his or her recommendation with the board. If, after
21 considering the recommendation of the superintendent and the evidence adduced at the hearing
22 if one is held, the board concludes that the grounds for the recommendation are true and
23 substantiated by a preponderance of the evidence, the board, if it sees fit, may by resolution
24 order such suspension.

25 (1) Board hearing for disciplinary suspensions for more than 10 days or for
26 certain types of intentional misconduct. – The procedures for a board hearing
27 under G.S. 115C-325.8 shall apply if any of the following circumstances
28 exist:

29 a. The recommended disciplinary suspension without pay is for more
30 than 10 days; or

31 b. The disciplinary suspension is for intentional misconduct, such as
32 inappropriate sexual or physical conduct, immorality,
33 insubordination, habitual or excessive alcohol or nonmedical use of a
34 controlled substance as defined in Article 5 of Chapter 90 of the
35 General Statutes, any cause that constitutes grounds for the
36 revocation of the teacher's or school administrator's license, or
37 providing false information.

38 (2) Board hearing for disciplinary suspensions of no more than 10 days. – The
39 procedures for a board hearing under G.S. 115C-325.7 shall apply to all
40 disciplinary suspensions of no more than 10 days that are not for intentional
41 misconduct as specified in G.S. 115C-325.5(b)(1).

42 (c) Suspension with Pay. – If a superintendent believes that cause may exist for
43 dismissing or demoting a teacher for any reasons specified in G.S. 115C-325.4 but that
44 additional investigation of the facts is necessary and circumstances are such that the teacher
45 should be removed immediately from the teacher's duties, the superintendent may suspend the
46 teacher with pay for a reasonable period of time, not to exceed 90 days. The superintendent
47 shall notify the board of education within two days of the superintendent's action and shall
48 notify the teacher within two days of the action and the reasons for it. If the superintendent has
49 not initiated dismissal or demotion proceedings against the teacher within the 90-day period,
50 the teacher shall be reinstated to the teacher's duties immediately and all records of the
51 suspension with pay shall be removed from the teacher's personnel file at the teacher's request.
52 However, if the superintendent and the teacher agree to extend the 90-day period, the
53 superintendent may initiate dismissal or demotion proceedings against the teacher at any time
54 during the period of the extension.

55 **§ 115C-325.6. Procedure for dismissal or demotion of a teacher for cause.**

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

1 (b) Notice of Recommendation. – Before recommending to a board the dismissal or
2 demotion of a teacher, the superintendent shall give written notice to the teacher by certified
3 mail or personal delivery of the superintendent's intention to make such recommendation and
4 shall set forth as part of the superintendent's recommendation the grounds upon which he or she
5 believes such dismissal or demotion is justified. The superintendent also shall meet with the
6 teacher and provide written notice of the charges against the teacher, an explanation of the basis
7 for the charges, and an opportunity to respond if the teacher has not done so under
8 G.S. 115C-325.5(a). The notice shall include a statement to the effect that the teacher, within
9 14 days after the date of receipt of the notice, may request a hearing before the board on the
10 superintendent's recommendation. A copy of Part 3 of Article 22 of Chapter 115C shall also be
11 sent to the teacher.

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

21 (d) No Request for Hearing. – If the teacher does not request a hearing before the board
22 within the 14 days provided, the superintendent may submit his or her recommendation to the
23 board. The board, if it sees fit, may by resolution (i) reject the superintendent's recommendation
24 or (ii) accept or modify the superintendent's recommendation and dismiss, demote, reinstate, or
25 suspend the teacher without pay.

26 **"§ 115C-325.7. Hearing before board.**

27 (a) Board Hearing. – The following procedures shall apply to a hearing conducted by
28 the board:

29 (1) The hearing shall be private.

30 (2) The board shall receive the following:

31 a. Any documentary evidence the superintendent intends to use to
32 support the recommendation. The superintendent shall provide the
33 documentary evidence to the teacher seven days before the hearing.

34 b. Any documentary evidence the teacher intends to use to rebut the
35 superintendent's recommendation. The teacher shall provide the
36 superintendent with the documentary evidence three days before the
37 hearing.

38 c. The superintendent's recommendation and the grounds for the
39 recommendation.

40 (3) The superintendent and teacher may submit a written statement not less than
41 three days before the hearing.

42 (4) The superintendent and teacher shall be permitted to make oral arguments to
43 the board based on the record before the board.

44 (5) The board shall make findings of fact based upon a preponderance of the
45 evidence.

46 (6) Within two days following the hearing, the board shall send a written copy
47 of its findings and determination to the teacher and the superintendent.

48 (7) If the board elects to make a transcript, the teacher may request and shall
49 receive at no charge a transcript of the proceedings. A teacher may have the
50 hearing transcribed by a court reporter at the teacher's expense.

51 (b) The procedures of this section shall not apply to board hearings for disciplinary
52 suspensions without pay under G.S. 115C-325.5(b)(1). Board hearings for
53 G.S. 115C-325.5(b)(1) shall be conducted as provided in G.S. 115C-325.8.

54 **"§ 115C-325.8. Board hearing for certain disciplinary suspensions.**

55 (a) The following procedures shall apply for a board hearing under G.S. 115C-325.5(b),
56 disciplinary suspensions without pay:

57 (1) The hearing shall be private.

58 (2) The hearing shall be conducted in accordance with reasonable rules adopted
59 by the State Board of Education to govern such hearings.

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

29 **§ 115C-325.9. Teacher resignation.**

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

- 33 (1) The superintendent shall report the matter to the State Board of Education.
- 34 (2) The teacher shall be deemed to have consented to (i) the placement in the
35 teacher's personnel file of the written notice of the superintendent's intention
36 to recommend dismissal and (ii) the release of the fact that the
37 superintendent has reported this teacher to the State Board of Education to
38 prospective employers, upon request. The provisions of G.S. 115C-321 shall
39 not apply to the release of this particular information.
- 40 (3) The teacher shall be deemed to have voluntarily surrendered his or her
41 license pending an investigation by the State Board of Education in a
42 determination whether or not to seek action against the teacher's license.
43 This license surrender shall not exceed 45 days from the date of resignation.
44 Provided further that the cessation of the license surrender shall not prevent
45 the State Board of Education from taking any further action it deems
46 appropriate. The State Board of Education shall initiate investigation within
47 five working days of the written notice from the superintendent and shall
48 make a final decision as to whether to revoke or suspend the teacher's license
49 within 45 days from the date of resignation.

50 (b) 30 Days' Notice Resignation Requirement. – A teacher who is not recommended for
51 dismissal should not resign during the term of the contract without the consent of the
52 superintendent unless he or she has given at least 30 days' notice. If a teacher who is not
53 recommended for dismissal does resign during the term of the contract without giving at least
54 30 days' notice, the board may request that the State Board of Education revoke the teacher's
55 license for the remainder of that school year. A copy of the request shall be placed in the
56 teacher's personnel file.

57 **§ 115C-325.10. Application to certain institutions.**

58 Notwithstanding any law or regulation to the contrary, this Part shall apply to all persons
59 employed in teaching and related educational classes in the schools and institutions of the

1 Departments of Health and Human Services, Public Instruction, Correction, or the Division of
2 Juvenile Justice of the Department of Public Safety, regardless of the age of the students.

3 **"§ 115C-325.11. Dismissal of school administrators and teachers employed in**
4 **low-performing residential schools.**

5 (a) Notwithstanding any other provision of this section or any other law, this section
6 shall govern the dismissal by the State Board of Education of teachers, principals, assistant
7 principals, directors, supervisors, and other licensed personnel assigned to a residential school
8 that the State Board has identified as low-performing and to which the State Board has assigned
9 an assistance team. The State Board shall dismiss a teacher, principal, assistant principal,
10 director, supervisor, or other licensed personnel when the State Board receives two consecutive
11 evaluations that include written findings and recommendations regarding that person's
12 inadequate performance from the assistance team. These findings and recommendations shall
13 be substantial evidence of the inadequate performance of the teacher or school administrator.

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

16 (1) The State Board determines that the school has failed to make satisfactory
17 improvement after the State Board assigned an assistance team to that
18 school.

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

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

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

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

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

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

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

47 **"§ 115C-325.12. Procedure for dismissal of Principals employed in low-performing**
48 **schools.**

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

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

59 (c) Procedures for Dismissal of Principal. –

- 1 (1) If the State Board through its designee recommends the dismissal of a
2 principal under this section, the principal shall be suspended with pay
3 pending a hearing before a panel of three members of the State Board. The
4 purpose of this hearing, which shall be held within 60 days after the
5 principal is suspended, is to determine whether the principal shall be
6 dismissed.
- 7 (2) The panel shall order the dismissal of the principal if it determines from
8 available information, including the findings of the assistance team, that the
9 low performance of the school is due to the principal's inadequate
10 performance.
- 11 (3) The panel may order the dismissal of the principal if (i) it determines that the
12 school has not made satisfactory improvement after the State Board assigned
13 an assistance team to that school; and (ii) the assistance team makes the
14 recommendation to dismiss the principal for one or more grounds
15 established in G.S. 115C-325.4 for dismissal or demotion of a teacher.
- 16 (4) If the State Board or its designee recommends the dismissal of a principal
17 before the assistance team assigned to the principal's school has evaluated
18 that principal, the panel may order the dismissal of the principal if the panel
19 determines from other available information that the low performance of the
20 school is due to the principal's inadequate performance.
- 21 (5) In all hearings under this section, the burden of proof is on the principal to
22 establish that the factors leading to the school's low performance were not
23 due to the principal's inadequate performance. In all hearings under this
24 section, the burden of proof is on the State Board to establish that the school
25 failed to make satisfactory improvement after an assistance team was
26 assigned to the school and to establish one or more of the grounds
27 established for dismissal or demotion of a teacher under G.S. 115C-325.4.
- 28 (6) In all hearings under this section, two consecutive evaluations that include
29 written findings and recommendations regarding that principal's inadequate
30 performance from the assistance team are substantial evidence of the
31 inadequate performance of the principal.
- 32 (7) The State Board shall adopt procedures to ensure that due process rights are
33 afforded to principals under this section. Decisions of the panel may be
34 appealed on the record to the State Board.
- 35 (d) The State Board of Education or a local board may terminate the contract of a
36 principal dismissed under this section.
- 37 (e) Neither party to a school administrator contract is entitled to damages under this
38 section.
- 39 (f) The State Board shall have the right to subpoena witnesses and documents on behalf
40 of any party to the proceedings under this section.
- 41 **§ 115C-325.13. Procedure for dismissal of teachers employed in low-performing schools.**
- 42 (a) Notwithstanding any other provision of this Part or any other law, this section shall
43 govern the State Board's dismissal of teachers, assistant principals, directors, and supervisors
44 assigned to schools that the State Board has identified as low-performing and to which the State
45 Board has assigned an assistance team under Article 8B of this Chapter. The State Board shall
46 dismiss a teacher, assistant principal, director, or supervisor when the State Board receives two
47 consecutive evaluations that include written findings and recommendations regarding that
48 person's inadequate performance from the assistance team. These findings and
49 recommendations shall be substantial evidence of the inadequate performance of the teacher,
50 assistant principal, director, or supervisor.
- 51 (b) The State Board may dismiss a teacher, assistant principal, director, or supervisor
52 when:
- 53 (1) The State Board determines that the school has failed to make satisfactory
54 improvement after the State Board assigned an assistance team to that school
55 under G.S. 115C-105.38; and
- 56 (2) That assistance team makes the recommendation to dismiss the teacher,
57 assistant principal, director, or supervisor for one or more grounds
58 established in G.S. 115C-325.4 for dismissal or demotion for cause.

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

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

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

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

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

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

23 **SECTION 7A.14.(c)** G.S. 115C-45(c) reads as rewritten:

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

- 26 (1) The discipline of a student under G.S. 115C-390.7, 115C-390.10, or
27 115C-390.11;
- 28 (2) An alleged violation of a specified federal law, State law, State Board of
29 Education policy, State rule, or local board policy, including policies
30 regarding grade retention of students;
- 31 (3) The terms or conditions of employment or employment status of a school
32 employee; and
- 33 (4) Any other decision that by statute specifically provides for a right of appeal
34 to the local board of education and for which there is no other statutory
35 appeal procedure.

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

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

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

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

50 An appeal of right brought before a local board of education under subdivision (1), (2), ~~(3),~~
51 or (4) of this subsection may be further appealed to the superior court of the State on the
52 grounds that the local board's decision is in violation of constitutional provisions, is in excess of
53 the statutory authority or jurisdiction of the board, is made upon unlawful procedure, is affected
54 by other error of law, is unsupported by substantial evidence in view of the entire record as
55 submitted, or is arbitrary or capricious. ~~However, the right of a noncertified employee to appeal~~
56 ~~decisions of a local board under subdivision (3) of this subsection shall only apply to decisions~~
57 ~~concerning the dismissal, demotion, or suspension without pay of the noncertified employee. A~~
58 ~~noncertified employee may request and shall be entitled to receive written notice as to the~~
59 ~~reasons for the employee's dismissal, demotion, or suspension without pay. The notice shall be~~

1 provided to the employee prior to any local board of education hearing on the issue. This
 2 subsection shall not alter the employment status of a noncertified employee."

3 **SECTION 7A.14.(d)** G.S. 115C-105.26(b)(2) reads as rewritten:

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

11 **SECTION 7A.14.(e)** G.S. 115C-105.37B(a)(2) reads as rewritten:

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

21 **SECTION 7A.14.(f)** G.S. 115C-105.38A(d) reads as rewritten:

22 "(d) Retesting; Dismissal. – Upon completion of the remediation plan required under
 23 subsection (c) of this section, the certified staff member shall take the general knowledge test a
 24 second time. If the certified staff member fails to acquire a passing score on the second test, the
 25 State Board shall begin a dismissal proceeding under
 26 ~~G.S. 115C-325(q)(2a)~~. G.S. 115C-325.13."

27 **SECTION 7A.14.(g)** G.S. 115C-105.38A(f) reads as rewritten:

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

- 30 (1) The dismissal of a principal under ~~G.S. 115C-325(q)(1)~~; G.S. 115C-325.12.
- 31 (2) The dismissal of a teacher, assistant principal, director, or supervisor under
 32 ~~G.S. 115C-325(q)(2)~~; G.S. 115C-325.13.
- 33 (3) The dismissal or demotion of ~~a career~~ an employee for any of the grounds
 34 listed under ~~G.S. 115C-325(e)~~; G.S. 115C-325.4.
- 35 (4) The nonrenewal of a school administrator's or ~~probationary~~ teacher's contract
 36 of ~~employment~~; employment.
- 37 ~~(5) The decision to grant career status."~~

38 **SECTION 7A.14.(h)** G.S. 115C-105.39 reads as rewritten:

39 "**§ 115C-105.39. Dismissal or removal of personnel; appointment of interim
 40 superintendent.**

41 (a) Within 30 days of the initial identification of a school as low-performing, whether
 42 by the local school administrative unit under G.S. 115C-105.37(a1) or by the State Board under
 43 G.S. 115C-105.37(a), the superintendent shall take one of the following actions concerning the
 44 school's principal: (i) recommend to the local board that the principal be retained in the same
 45 position, (ii) recommend to the local board that the principal be retained in the same position
 46 and a plan of remediation should be developed, (iii) recommend to the local board that the
 47 principal be transferred, or (iv) proceed under ~~G.S. 115C-325~~ G.S. 115C-325.4 to dismiss or
 48 demote the principal. The principal may be retained in the same position without a plan for
 49 remediation only if the principal was in that position for no more than two years before the
 50 school is identified as low-performing. The principal shall not be transferred to another
 51 principal position unless (i) it is in a school classification in which the principal previously
 52 demonstrated at least 2 years of success, (ii) there is a plan to evaluate and provide remediation
 53 to the principal for at least one year following the transfer to assure the principal does not
 54 impede student performance at the school to which the principal is being transferred; and (iii)
 55 the parents of the students at the school to which the principal is being transferred are notified.
 56 The principal shall not be transferred to another low-performing school in the local school
 57 administrative unit. If the superintendent intends to recommend demotion or dismissal, the
 58 superintendent shall notify the local board. Within 15 days of (i) receiving notification that the
 59 superintendent intends to proceed under ~~G.S. 115C-325~~ G.S. 115C-325.4 or (ii) its decision

1 concerning the superintendent's recommendation, but no later than September 30, the local
 2 board shall submit to the State Board a written notice of the action taken and the basis for that
 3 action. If the State Board does not assign an assistance team to that school or if the State Board
 4 assigns an assistance team to that school and the superintendent proceeds under
 5 ~~G.S. 115C-325~~G.S. 115C-325.4 to dismiss or demote the principal, then the State Board shall
 6 take no further action. If the State Board assigns an assistance team to the school and the
 7 superintendent is not proceeding under ~~G.S. 115C-325~~G.S. 115C-325.4 to dismiss or demote
 8 the principal, then the State Board shall vote to accept, reject, or modify the local board's
 9 recommendations. The State Board shall notify the local board of its action within five days. If
 10 the State Board rejects or modifies the local board's recommendations and does not recommend
 11 dismissal of the principal, the State Board's notification shall include recommended action
 12 concerning the principal's assignment or terms of employment. Upon receipt of the State
 13 Board's notification, the local board shall implement the State Board's recommended action
 14 concerning the principal's assignment or terms of employment unless the local board asks the
 15 State Board to reconsider that recommendation. The State Board shall provide an opportunity
 16 for the local board to be heard before the State Board acts on the local board's request for a
 17 reconsideration. The State Board shall vote to affirm or modify its original recommended
 18 action and shall notify the local board of its action within five days. Upon receipt of the State
 19 Board's notification, the local board shall implement the State Board's final recommended
 20 action concerning the principal's assignment or terms of employment. If the State Board rejects
 21 or modifies the local board's action and recommends dismissal of the principal, the State Board
 22 shall proceed under ~~G.S. 115C-325(e)(1)~~G.S. 115C-325.12.

23 (b) The State Board shall proceed under ~~G.S. 115C-325(q)(2)~~G.S. 115C-325.13 for the
 24 dismissal of teachers, assistant principals, directors, and supervisors assigned to a school
 25 identified as low-performing in accordance with ~~G.S. 115C-325(q)(2)~~G.S. 115C-325.13.
 26"

27 **SECTION 7A.14.(i)** G.S. 115C-238.29F(e)(3) reads as rewritten:

28 "(3) If a teacher employed by a local school administrative unit makes a written
 29 request for a leave of absence to teach at a charter school, the local school
 30 administrative unit shall grant the leave for one year. For the initial year of a
 31 charter school's operation, the local school administrative unit may require
 32 that the request for a leave of absence be made up to 45 days before the
 33 teacher would otherwise have to report for duty. After the initial year of a
 34 charter school's operation, the local school administrative unit may require
 35 that the request for a leave of absence be made up to 90 days before the
 36 teacher would otherwise have to report for duty. A local board of education
 37 is not required to grant a request for a leave of absence or a request to extend
 38 or renew a leave of absence for a teacher who previously has received a
 39 leave of absence from that school board under this subdivision. A teacher
 40 who has ~~career status under G.S. 115C-325~~ prior to ~~receiving~~received a
 41 leave of absence to teach at a charter school may return to a public school in
 42 the local school administrative unit ~~with career status~~ at the end of the leave
 43 of absence or upon the end of employment at the charter school if an
 44 appropriate position is available. ~~If an appropriate position is unavailable,~~
 45 ~~the teacher's name shall be placed on a list of available teachers and that~~
 46 ~~teacher shall have priority on all positions for which that teacher is qualified~~
 47 ~~in accordance with G.S. 115C-325(e)(2)."~~

48 **SECTION 7A.14.(j)** G.S. 115C-238.68(3) reads as rewritten:

49 "(3) ~~Career status.~~Leave of absence from local school administrative unit. –
 50 ~~Employees of the board of directors shall not be eligible for career status.~~If
 51 a teacher employed by a local school administrative unit makes a written
 52 request for a leave of absence to teach at the regional school, the local school
 53 administrative unit shall grant the leave for one year. For the initial year of
 54 the regional school's operation, the local school administrative unit may
 55 require that the request for a leave of absence be made up to 45 days before
 56 the teacher would otherwise have to report for duty. After the initial year of
 57 the regional school's operation, the local school administrative unit may
 58 require that the request for a leave of absence be made up to 90 days before
 59 the teacher would otherwise have to report for duty. A local board of

1 education is not required to grant a request for a leave of absence or a
 2 request to extend or renew a leave of absence for a teacher who previously
 3 has received a leave of absence from that school board under this
 4 subdivision. A teacher who has ~~career status under G.S. 115C-325~~ prior to
 5 ~~receiving~~received a leave of absence to teach at the regional school may
 6 return to a public school in the local school administrative unit ~~with career~~
 7 ~~status~~ at the end of the leave of absence or upon the end of employment at
 8 the regional school if an appropriate position is available. ~~If an appropriate~~
 9 ~~position is unavailable, the teacher's name shall be placed on a list of~~
 10 ~~available teachers in accordance with G.S. 115C-325(e)(2)."~~

11 **SECTION 7A.14.(k)** G.S. 115C-276(l) reads as rewritten:

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

17 **SECTION 7A.14.(l)** G.S. 115C-285(7) reads as rewritten:

18 "(7) All persons employed as principals in the schools and institutions listed in
 19 ~~subsection (p) of G.S. 115C-325~~ G.S. 115C-325.10 shall be compensated at
 20 the same rate as are teachers in the public schools in accordance with the
 21 salary schedule adopted by the State Board of Education."

22 **SECTION 7A.14.(m)** G.S. 115C-287.1 reads as rewritten:

23 **"§ 115C-287.1. Method of employment of principals, assistant principals, supervisors,**
 24 **and directors.**

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

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

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

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

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

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

- 41 a. Principal;
- 42 b. Assistant principal;
- 43 c. Supervisor; or
- 44 d. Director,

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

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

51 (b) Local boards of education shall employ school administrators ~~who are ineligible for~~
 52 ~~career status as provided in G.S. 115C-325(e)(3),~~ upon the recommendation of the
 53 superintendent. The initial contract between a school administrator and a local board of
 54 education shall be for two to four years, ending on June 30 of the final 12 months of the
 55 contract. In the case of a subsequent contract between a principal or assistant principal and a
 56 local board of education, the contract shall be for a term of four years. In the case of an initial
 57 contract between a school administrator and a local board of education, the first year of the
 58 contract may be for a period of less than 12 months provided the contract becomes effective on
 59 or before September 1. A local board of education may, with the written consent of the school

1 administrator, extend, renew, or offer a new school administrator's contract at any time after the
2 first 12 months of the contract so long as the term of the new, renewed, or extended contract
3 does not exceed four years. Rolling annual contract renewals are not allowed. Nothing in this
4 section shall be construed to prohibit the filling of an administrative position on an interim or
5 temporary basis.

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

11 (d) If a superintendent intends to recommend to the local board of education that the
12 school administrator be offered a new, renewed, or extended contract, the superintendent shall
13 submit the recommendation to the local board for action. The local board may approve the
14 superintendent's recommendation or decide not to offer the school administrator a new,
15 renewed, or extended school administrator's contract.

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

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

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

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

43 ~~(g) If, prior to appointment as a school administrator, the school administrator held~~
44 ~~career status as a teacher in the local school administrative unit in which he or she is employed~~
45 ~~as a school administrator, a school administrator shall retain career status as a teacher if the~~
46 ~~school administrator is not offered a new, renewed, or extended contract by the local board of~~
47 ~~education, unless the school administrator voluntarily relinquished that right or is dismissed or~~
48 ~~demoted pursuant to G.S. 115C-325.~~

49 (h) An individual who holds a provisional assistant principal's certificate and who is
50 employed as an assistant principal under G.S. 115C-284(c) shall be considered a school
51 administrator for purposes of this section. Notwithstanding subsection (b) of this section, a
52 local board may enter into one-year contracts with a school administrator who holds a
53 provisional assistant principal's certificate. ~~If the school administrator held career status as a~~
54 ~~teacher in the local school administrative unit prior to being employed as an assistant principal~~
55 ~~and the State Board for any reason does not extend the school administrator's provisional~~
56 ~~assistant principal's certificate, the school administrator shall retain career status as a teacher~~
57 ~~unless the school administrator voluntarily relinquished that right or is dismissed or demoted~~
58 ~~under G.S. 115C-325.~~ Nothing in this subsection or G.S. 115C-284(c) shall be construed to

1 require a local board to extend or renew the contract of a school administrator who holds a
2 provisional assistant principal's certificate."

3 **SECTION 7A.14.(n)** G.S. 115C-288(g) reads as rewritten:

4 "(g) To Report Certain Acts to Law Enforcement and the Superintendent. – When the
5 principal has personal knowledge, a reasonable belief, or actual notice from school personnel
6 that an act has occurred on school property involving assault resulting in serious personal
7 injury, sexual assault, sexual offense, rape, kidnapping, indecent liberties with a minor, assault
8 involving the use of a weapon, possession of a firearm in violation of the law, possession of a
9 weapon in violation of the law, or possession of a controlled substance in violation of the law,
10 the principal shall immediately report the act to the appropriate local law enforcement agency.

11 A principal who willfully fails to make a report to law enforcement required by this
12 subsection may be subject to demotion or dismissal pursuant to
13 ~~G.S. 115C-325~~. G.S. 115C-325.4.

14 Notwithstanding any other provision of law, the State Board of Education shall not require
15 the principal to report to law enforcement acts in addition to those required to be reported by
16 this subsection.

17 For purposes of this subsection, "school property" shall include any public school building,
18 bus, public school campus, grounds, recreational area, or athletic field, in the charge of the
19 principal.

20 The principal or the principal's designee shall notify the superintendent or the
21 superintendent's designee in writing or by electronic mail regarding any report made to law
22 enforcement under this subsection. This notification shall occur by the end of the workday in
23 which the incident occurred when reasonably possible but not later than the end of the
24 following workday. The superintendent shall provide the information to the local board of
25 education.

26 Nothing in this subsection shall be interpreted to interfere with the due process rights of
27 school employees or the privacy rights of students."

28 **SECTION 7A.14.(o)** G.S. 115C-304 is repealed.

29 **SECTION 7A.14.(p)** G.S. 115C-333 reads as rewritten:

30 **"§ 115C-333. Evaluation of licensed employees including certain superintendents;
31 mandatory improvement plans; State board notification upon dismissal of
32 employees.**

33 (a) Annual Evaluations; Low-Performing Schools. – Local school administrative units
34 shall evaluate at least once each year all licensed employees assigned to a school that has been
35 identified as low-performing. The evaluation shall occur early enough during the school year to
36 provide adequate time for the development and implementation of a mandatory improvement
37 plan if one is recommended under subsection (b) of this section. If the employee is a teacher as
38 defined under ~~G.S. 115C-325(a)(6)~~, G.S. 115C-325.1(5), either the principal, the assistant
39 principal who supervises the teacher, or an assistance team assigned under G.S. 115C-105.38
40 shall conduct the evaluation. If the employee is a school administrator as defined under
41 G.S. 115C-287.1(a)(3), either the superintendent or the superintendent's designee shall conduct
42 the evaluation.

43 All teachers in low-performing schools who have ~~not attained career status~~ been employed
44 for less than three consecutive years shall be observed at least three times annually by the
45 principal or the principal's designee and at least once annually by a teacher and shall be
46 evaluated at least once annually by a principal. This section shall not be construed to limit the
47 duties and authority of an assistance team assigned to a low-performing school under
48 G.S. 115C-105.38.

49 A local board shall use the performance standards and criteria adopted by the State Board
50 and may adopt additional evaluation criteria and standards. All other provisions of this section
51 shall apply if a local board uses an evaluation other than one adopted by the State Board.

52 (b) Mandatory Improvement Plans. –

53 (1) Repealed by Session Laws 2011-348, s. 2, effective July 1, 2011, and
54 applicable to persons recommended for dismissal or demotion on or after
55 that date.

56 (1a) A mandatory improvement plan is an instrument designed to improve a
57 teacher's performance or the performance of any licensed employee in a
58 low-performing school by providing the individual with notice of specific
59 performance areas that have substantial deficiencies and a set of strategies,

1 including the specific support to be provided to the individual, so that the
2 individual, within a reasonable period of time, should satisfactorily resolve
3 such deficiencies.

4 (2) Repealed by Session Laws 2011-348, s. 2, effective July 1, 2011, and
5 applicable to persons recommended for dismissal or demotion on or after
6 that date.

7 (2a) If a licensed employee in a low-performing school receives a rating on any
8 standard on an evaluation that is below proficient or otherwise represents
9 unsatisfactory or below standard performance in an area that the licensed
10 employee was expected to demonstrate, the individual or team that
11 conducted the evaluation shall recommend to the superintendent that (i) the
12 employee receive a mandatory improvement plan designed to improve the
13 employee's ~~performance or performance~~, (ii) the superintendent recommend
14 to the local board that the ~~employee be dismissed or demoted~~ employee's
15 contract not be recommended for renewal, or (iii) if the employee engaged in
16 inappropriate conduct or performed inadequately to such a degree that such
17 conduct or performance causes substantial harm to the educational
18 environment that a proceeding for immediate dismissal or demotion be
19 instituted. If the individual or team that conducted the evaluation elects not
20 to make ~~either any~~ of the above recommendations, the said individual or
21 team shall notify the superintendent of this decision. The superintendent
22 shall determine whether to develop a mandatory improvement ~~plan~~ plan, to
23 not recommend renewal of the employee's contract, or to recommend a
24 dismissal proceeding.

25 (3) If at any time a licensed employee engages in inappropriate conduct or
26 performs inadequately to such a degree that such conduct or performance
27 causes substantial harm to the educational environment, and immediate
28 dismissal or demotion is not appropriate, then the principal may immediately
29 institute a mandatory improvement plan regardless of any ratings on
30 previous evaluations. The principal shall document the exigent reason for
31 immediately instituting such a plan.

32 (4) Mandatory improvement plans shall be developed by the person who
33 evaluated the licensed employee or the employee's supervisor unless the
34 evaluation was conducted by an assistance team. If the evaluation was
35 conducted by an assistance team, that team shall develop the mandatory
36 improvement plan in collaboration with the employee's supervisor.
37 Mandatory improvement plans shall be designed to be completed within 90
38 instructional days or before the beginning of the next school year. The State
39 Board shall develop guidelines that include strategies to assist local boards
40 in evaluating licensed employees and developing effective mandatory
41 improvement plans within the time allotted under this section. Local boards
42 may adopt policies for the development and implementation of mandatory
43 improvement plans and policies for the implementation of monitored and
44 directed growth plans.

45 (c) Reassessment of Employee in a Low-Performing School. – After the expiration of
46 the time period for the mandatory improvement plan under subdivision (2a) of subsection (b) of
47 this section, the superintendent, the superintendent's designee, or the assistance team shall
48 assess the performance of the employee of the low-performing school a second time. If the
49 superintendent, superintendent's designee, or assistance team determines that the employee has
50 failed to become proficient in any of the performance standards articulated in the mandatory
51 improvement plan or demonstrate sufficient improvement toward such standards, the
52 superintendent shall recommend that the ~~employee~~ employee's contract not be renewed, or that
53 the employee be immediately dismissed or demoted under G.S. 115C-325.G.S. 115C-325.4.
54 The results of the second assessment shall constitute substantial evidence of the employee's
55 inadequate performance.

56 (d) State Board Notification. – If a local board dismisses an employee of a
57 low-performing school ~~for any reason~~ for cause or elects to not renew an employee's contract as
58 a result of a superintendent's recommendation under subsection (b) or (c) of this section, except
59 a reduction in force under G.S. 115C-325(e)(1)I., it shall notify the State Board of the action,

1 and the State Board annually shall provide to all local boards the names of those individuals. If
2 a local board hires one of these individuals, within 60 days the superintendent or the
3 superintendent's designee shall observe the employee, develop a mandatory improvement plan
4 to assist the employee, and submit the plan to the State Board. The State Board shall review the
5 mandatory improvement plan and may provide comments and suggestions to the
6 superintendent. If on the next evaluation the employee receives a rating on any standard that
7 was identified as an area of concern on the mandatory improvement plan that is again below
8 proficient or otherwise represents unsatisfactory or below standard performance, the local
9 board shall notify the State Board and the State Board shall initiate a proceeding to revoke the
10 employee's license under G.S. 115C-296(d). If on this next evaluation the employee receives at
11 least a proficient rating on all of the performance standards that were identified as areas of
12 concern on the mandatory improvement plan, the local board shall notify the State Board that
13 the employee is in good standing and the State Board shall not continue to provide the
14 individual's name to local boards under this subsection unless the employee is subsequently
15 dismissed under ~~G.S. 115C-325~~ except for a reduction in force. G.S. 115C-325.4.

16"

17 **SECTION 7A.14.(q)** G.S. 115C-333.1 reads as rewritten:

18 "**§ 115C-333.1. Evaluation of teachers in schools not identified as low-performing;**
19 **mandatory improvement plans; State Board notification upon dismissal of**
20 **teachers.**

21 (a) Annual Evaluations. – All teachers who are assigned to schools that are not
22 designated as low-performing and who have not ~~attained career status~~ been employed for at
23 least three consecutive years shall be observed at least three times annually by the principal or
24 the principal's designee and at least once annually by a teacher and shall be evaluated at least
25 once annually by a principal. All teachers ~~with career status~~ who have been employed for three
26 or more years who are assigned to schools that are not designated as low-performing shall be
27 evaluated annually unless a local board adopts rules that allow teachers ~~with career~~
28 ~~status~~ employed for three or more years to be evaluated more or less frequently, provided that
29 such rules are not inconsistent with State or federal requirements. Local boards also may adopt
30 rules requiring the annual evaluation of nonlicensed employees. A local board shall use the
31 performance standards and criteria adopted by the State Board and may adopt additional
32 evaluation criteria and standards. All other provisions of this section shall apply if a local board
33 uses an evaluation other than one adopted by the State Board.

34 (b) Mandatory Improvement Plans for Teachers. – If, in an observation report or
35 year-end evaluation, a teacher receives a rating that is below proficient or otherwise represents
36 unsatisfactory or below standard performance on any standard that the teacher was expected to
37 demonstrate, the principal may place the teacher on a mandatory improvement plan as defined
38 in G.S. 115C-333(b)(1a). The mandatory improvement plan shall be utilized only if the
39 superintendent or superintendent's designee determines that an individual, monitored, or
40 directed growth plan will not satisfactorily address the deficiencies.

41 If at any time a teacher engages in inappropriate conduct or performs inadequately to such a
42 degree that such conduct or performance causes substantial harm to the educational
43 environment, and immediate dismissal or demotion is not appropriate, then the principal may
44 immediately institute a mandatory improvement plan regardless of any ratings on previous
45 evaluations. The principal shall document the exigent reason for immediately instituting such a
46 plan. The mandatory improvement plan shall be developed by the principal in consultation with
47 the teacher. The teacher shall have five instructional days from receipt of the proposed
48 mandatory improvement plan to request a modification of such plan before it is implemented,
49 and the principal shall consider such suggested modifications before finalizing the plan. The
50 teacher shall have at least 60 instructional days to complete the mandatory improvement plan.
51 The State Board shall develop guidelines that include strategies to assist local boards in
52 evaluating teachers and developing effective mandatory improvement plans. Local boards may
53 adopt policies for the implementation of mandatory improvement plans under this section.

54 (c) Observation by a Qualified Observer. –

55 (1) The term "qualified observer" as used in this section is any administrator or
56 teacher who is licensed by the State Board of Education and working in
57 North Carolina; any employee of the North Carolina Department of Public
58 Instruction who is trained in evaluating licensed employees; or any instructor

1 or professor who teaches in an accredited North Carolina school of
2 education and holds an educator's license.

3 (2) The local board of education shall create a list of qualified observers who are
4 employed by that board and available to do observations of employees on
5 mandatory improvement plans. This list shall be limited to names of
6 administrators and teachers selected by the local board of education. The
7 local board of education shall strive to select administrators and teachers
8 with excellent reputations for competence and fairness.

9 (3) Any teacher, other than a teacher assigned to a school designated as
10 low-performing, who has been placed on a mandatory improvement plan
11 shall have a right to be observed by a qualified observer in the area or areas
12 of concern identified in the mandatory improvement plan. The affected
13 teacher and the principal shall jointly choose the qualified observer within
14 20 instructional days after the commencement of the mandatory
15 improvement plan. If the teacher and the principal cannot agree on a
16 qualified observer within this time period, they each shall designate a person
17 from the list of qualified observers created pursuant to subdivision (2) of this
18 subsection, and these two designated persons shall choose a qualified
19 observer within five instructional days of their designation. The qualified
20 observer shall draft a written report assessing the teacher in the areas of
21 concern identified in the mandatory improvement plan. The report shall be
22 submitted to the principal before the end of the mandatory improvement plan
23 period. If a teacher or administrator from the same local school
24 administrative unit is selected to serve as the qualified observer, the
25 administration of the local school administrative unit shall provide such
26 qualified observer with the time necessary to conduct the observation and
27 prepare a report. If someone who is not employed by the same local school
28 administrative unit is selected to serve as the qualified observer, the teacher
29 who is the subject of the mandatory improvement plan will be responsible
30 for any expenses related to the observations and reports prepared by the
31 qualified observer. The qualified observer shall not unduly disrupt the
32 classroom when conducting an observation.

33 (4) No local board of education or employee of a local board of education shall
34 discharge, threaten, or otherwise retaliate against another employee of the
35 board regarding that employee's compensation, terms, conditions, location,
36 or privileges of employment because of the employee's service or
37 completion of a report as an objective observer pursuant to this subsection,
38 unless the employee's report contained material information that the
39 employee knew was false.

40 (d) Reassessment of the Teacher. – Upon completion of a mandatory improvement plan
41 under subsection (b) of this section, the principal shall assess the performance of the teacher a
42 second time. The principal shall also review and consider any report provided by the qualified
43 observer under subsection (c) of this section if one has been submitted before the end of the
44 mandatory improvement plan period. If, after the second assessment of the teacher and
45 consideration of any report from the qualified observer, the superintendent or superintendent's
46 designee determines that the teacher has failed to become proficient in any of the performance
47 standards identified as deficient in the mandatory improvement plan or demonstrate sufficient
48 improvement toward such standards, the superintendent may recommend that the teacher's
49 contract not be renewed, or if the teacher has engaged in inappropriate conduct or performed
50 inadequately to such a degree that such conduct or performance causes substantial harm to the
51 educational environment, that the teacher be immediately dismissed or demoted under
52 G.S. 115C-325.4. The results of the second assessment produced pursuant to
53 the terms of this subsection shall constitute substantial evidence of the teacher's inadequate
54 performance.

55 (e) Dismissal Proceedings Without a Mandatory Improvement Plan. – The absence of a
56 mandatory improvement plan as described in this section shall not prohibit a superintendent
57 from initiating a dismissal proceeding against a teacher under the provisions of
58 G.S. 115C-325.4. However, the superintendent shall not be entitled to the

1 substantial evidence provision in subsection (d) of this section if such mandatory improvement
2 plan is not utilized.

3 (f) State Board Notification. – If a local board dismisses a teacher for cause or elects to
4 not renew an employee's contract as a result of a superintendent's recommendation under
5 subsection (d) of this section, for any reason except a reduction in force under
6 G.S. 115C-325(e)(1)I., it shall notify the State Board of the action, and the State Board annually
7 shall provide to all local boards the names of those teachers. If a local board hires one of these
8 teachers, within 60 days the superintendent or the superintendent's designee shall observe the
9 teacher, develop a mandatory improvement plan to assist the teacher, and submit the plan to the
10 State Board. The State Board shall review the mandatory improvement plan and may provide
11 comments and suggestions to the superintendent. If on the next evaluation the teacher receives
12 a rating on any standard that was an area of concern on the mandatory improvement plan that is
13 again below proficient or a rating that otherwise represents unsatisfactory or below standard
14 performance, the local board shall notify the State Board, and the State Board shall initiate a
15 proceeding to revoke the teacher's license under G.S. 115C-296(d). If on the next evaluation the
16 teacher receives at least a proficient rating on all of the overall performance standards that were
17 areas of concern on the mandatory improvement plan, the local board shall notify the State
18 Board that the teacher is in good standing, and the State Board shall not continue to provide the
19 teacher's name to local boards under this subsection unless the teacher is subsequently
20 dismissed under ~~G.S. 115C-325~~G.S. 115C-325.4. ~~except for a reduction in force.~~ If, however,
21 on this next evaluation the teacher receives a developing rating on any standards that were
22 areas of concern on the mandatory improvement plan, if the local board elects to renew the
23 teacher's contract and the teacher shall have one more year to bring the rating to proficient. If,
24 by the end of this second year, the teacher is not proficient in all standards that were areas of
25 concern on the mandatory improvement plan, the local board shall notify the State Board, and
26 the State Board shall initiate a proceeding to revoke the teacher's license under
27 G.S. 115C-296(d).

28"

29 **SECTION 7A.14.(r)** G.S. 115C-335(b) reads as rewritten:

30 "(b) Training. – The State Board, in collaboration with the Board of Governors of The
31 University of North Carolina, shall develop programs designed to train principals and
32 superintendents in the proper administration of the employee evaluations developed by the
33 State Board. The Board of Governors shall use the professional development programs for
34 public school employees that are under its authority to make this training available to all
35 principals and superintendents at locations that are geographically convenient to local school
36 administrative units. The programs shall include methods to determine whether an employee's
37 performance has improved student learning, the development and implementation of
38 appropriate professional growth and mandatory improvement plans, the process for contract
39 nonrenewal, and the dismissal process under ~~G.S. 115C-325~~Part 3 of Article 22 of this
40 Chapter. The Board of Governors shall ensure that the subject matter of the training programs
41 is incorporated into the masters in school administration programs offered by the constituent
42 institutions. The State Board, in collaboration with the Board of Governors, also shall develop
43 in-service programs for licensed public school employees that may be included in a mandatory
44 improvement plan created under G.S. 115C-333(b) or G.S. 115C-333.1(b). The Board of
45 Governors shall use the professional development programs for public school employees that
46 are under its authority to make this training available at locations that are geographically
47 convenient to local school administrative units."

48 **SECTION 7A.14.(s)** Article 23 of Chapter 115C of the General Statutes is
49 amended by adding a new section to read:

50 **"§ 115C-344. Employment benefits for exchange teachers.**

51 An exchange teacher is a nonimmigrant alien teacher participating in an exchange visitor
52 program designated by the United States Department of State pursuant to 22 C.F.R. Part 62 or
53 by the United States Department of Homeland Security pursuant to 8 C.F.R. Part 214.2(q). For
54 purposes of determining eligibility to receive employment benefits under this Chapter,
55 including personal leave, annual vacation leave, and sick leave, an exchange teacher shall be
56 considered a permanent teacher if employed with the expectation of at least six full consecutive
57 monthly pay periods of employment and if employed at least 20 hours per week. An exchange
58 teacher is not a teacher for purposes of the Teachers' and State Employees' Retirement System
59 of North Carolina as provided in G.S. 135-1(25)."

1 **SECTION 7A.14.(t)** G.S. 115C-404(b) reads as rewritten:

2 "(b) Documents received under this section shall be used only to protect the safety of or
3 to improve the education opportunities for the student or others. Information gained in
4 accordance with G.S. 7B-3100 shall not be the sole basis for a decision to suspend or expel a
5 student. Upon receipt of each document, the principal shall share the document with those
6 individuals who have (i) direct guidance, teaching, or supervisory responsibility for the student,
7 and (ii) a specific need to know in order to protect the safety of the student or others. Those
8 individuals shall indicate in writing that they have read the document and that they agree to
9 maintain its confidentiality. Failure to maintain the confidentiality of these documents as
10 required by this section is grounds for the dismissal of an employee who is not a career
11 employee and is grounds for dismissal of an employee who is a career employee, in accordance
12 with ~~G.S. 115C-325(c)(1)~~; ~~G.S. 115C-325.4(a)(9)~~."

13 **SECTION 7A.14.(u)** G.S. 143B-146.7(b) reads as rewritten:

14 "(b) At any time after the State Board identifies a school as low-performing under this
15 Part, the ~~Secretary State Board~~ shall proceed under ~~G.S. 115C-325(p1)~~ G.S. 115C-325.11 for
16 the dismissal of certificated instructional personnel assigned to that school."

17 **SECTION 7A.14.(v)** G.S. 143B-146.8 reads as rewritten:

18 "**§ 143B-146.8. Evaluation of ~~certificated-licensed~~ personnel and principals; action plans;
19 State Board notification.**

20 (a) Annual Evaluations; Low-Performing Schools. – The principal shall evaluate at
21 least once each year all ~~certificated-licensed~~ personnel assigned to a participating school that
22 has been identified as low-performing but has not received an assistance team. The evaluation
23 shall occur early enough during the school year to provide adequate time for the development
24 and implementation of an action plan if one is recommended under subsection (b) of this
25 section. If the employee is a teacher as defined under ~~G.S. 115C-325(a)(6)~~; G.S. 115C-325.1(5),
26 either the principal or an assessment team assigned under G.S. 143B-146.9 shall conduct the
27 evaluation. If the employee is a school administrator as defined under G.S. 115C-287.1(a)(3),
28 the Superintendent shall conduct the evaluation.

29 Notwithstanding this subsection or any other law, the principal shall observe at least three
30 times annually, a teacher shall observe at least once annually, and the principal shall evaluate at
31 least once annually, all teachers who have ~~not attained career status~~ been employed for less
32 than three consecutive years. All other employees who have been employed for three or more
33 years and are defined as teachers under ~~G.S. 115C-325(a)(6)~~ G.S. 115C-325.1(5) who are
34 assigned to participating schools that are not designated as low-performing shall be evaluated
35 annually unless the Secretary adopts rules that allow specified categories of teachers with
36 ~~career status~~ three or more years of employment to be evaluated more or less frequently. The
37 Secretary also may adopt rules requiring the annual evaluation of ~~noncertificated-nonlicensed~~
38 personnel. This section shall not be construed to limit the duties and authority of an assistance
39 team assigned to a low-performing school.

40 The Secretary shall use the State Board's performance standards and criteria unless the
41 Secretary develops an alternative evaluation that is properly validated and that includes
42 standards and criteria similar to those adopted by the State Board. All other provisions of this
43 section shall apply if an evaluation is used other than one adopted by the State Board.

44 (b) Action Plans. – If a ~~certificated-licensed~~ employee in a participating school that has
45 been identified as low-performing receives an unsatisfactory or below standard rating on any
46 function of the evaluation that is related to the employee's instructional duties, the individual or
47 team that conducted the evaluation shall recommend to the principal that: (i) the employee
48 receive an action plan designed to improve the employee's performance; (ii) the employee's
49 contract not be recommended for renewal, or (iii) if the employee engages in inappropriate
50 conduct or performs inadequately to such a degree that such conduct or performance causes
51 substantial harm to the educational environment that a proceeding for immediate dismissal or
52 demotion be instituted. ~~or (ii) the principal recommend to the Secretary that the employee be
53 dismissed or demoted.~~ The principal shall determine whether to develop an action ~~plan~~ plan, to
54 not recommend renewal of the employee's contract, or to recommend a dismissal proceeding.
55 The person who evaluated the employee or the employee's supervisor shall develop the action
56 plan unless an assistance team or assessment team conducted the evaluation. If an assistance
57 team or assessment team conducted the evaluation, that team shall develop the action plan in
58 collaboration with the employee's supervisor. Action plans shall be designed to be completed
59 within 90 instructional days or before the beginning of the next school year. The State Board, in

1 consultation with the Secretary, shall develop guidelines that include strategies to assist in
 2 evaluating ~~certificated-licensed~~ personnel and developing effective action plans within the time
 3 allotted under this section. The Secretary may adopt policies for the development and
 4 implementation of action plans or professional development plans for personnel who do not
 5 require action plans under this section.

6 (c) Reevaluation. – Upon completion of an action plan under subsection (b) of this
 7 section, the principal or the assessment team shall evaluate the employee a second time. If on
 8 the second evaluation the employee receives one unsatisfactory or more than one below
 9 standard rating on any function that is related to the employee's instructional duties, the
 10 principal shall recommend that the employee's contract not be renewed, or if the employee
 11 engages in inappropriate conduct or performs inadequately to such a degree that such conduct
 12 or performance causes substantial harm to the educational environment, that the employee be
 13 dismissed or demoted under G.S. 115C-325.4. The results of the second
 14 evaluation shall constitute substantial evidence of the employee's inadequate performance.

15 (d) State Board Notification. – If the Secretary dismisses an employee for cause or
 16 elects to not renew an employee's contract as a result of a superintendent's recommendation
 17 under subsection (b) or (c) of this section, any reason except a reduction in force under
 18 G.S. 115C-325(e)(1)I., the Secretary shall notify the State Board of the action, and the State
 19 Board annually shall provide to all local boards of education the names of those individuals. If
 20 a local board hires one of these individuals, that local board shall proceed under
 21 G.S. 115C-333(d).

22"

23 **SECTION 7A.14.(w)** Notwithstanding the requirements for terms of contracts in
 24 G.S. 115C-325.3, for the 2012-2013 school year all teachers shall be employed on a contract
 25 for a term of one year. This section becomes effective July 1, 2012, and applies to all school
 26 employees employed on or after that date.

27 EFFECTIVE DATE

28 **SECTION 7A.15.** Except as otherwise provided, this part is effective when it
 29 becomes law.

30 PART VIII. COMMUNITY COLLEGES

31 CARRYFORWARD FOR EQUIPMENT

32 **SECTION 8.2.(a)** In accordance with G.S. 115D-31, funds appropriated to the
 33 Community Colleges System Office for equipment for the 2011-2012 fiscal year shall not
 34 revert at the end of the fiscal year but shall be made available to the Community Colleges
 35 System Office for equipment for the 2012-2013 fiscal year.

36 **SECTION 8.2.(b)** This section becomes effective June 30, 2012.

37 REPEAL OBSOLETE REPORTS

38 **SECTION 8.3.(a)** G.S. 115D-5(o) reads as rewritten:

39 "(o) ~~The General Assembly finds that additional data are needed to determine the~~
 40 ~~adequacy of multicampus and off-campus center funds; therefore, multicampus colleges and~~
 41 ~~colleges with off-campus centers shall report annually, beginning September 1, 2005, to the~~
 42 ~~Community Colleges System Office on all expenditures by line item of funds used to support~~
 43 ~~their multicampuses and off-campus centers. The Community Colleges System Office shall~~
 44 ~~report on these expenditures to the Education Appropriation Subcommittees of the House of~~
 45 ~~Representatives and the Senate, the Office of State Budget and Management, and the Fiscal~~
 46 ~~Research Division by December 1 of each year.~~

47 All multicampus centers approved by the State Board of Community Colleges shall receive
 48 funding under the same formula. The State Board of Community Colleges shall not approve
 49 any additional multicampus centers without identified recurring sources of funding."

50 **SECTION 8.3.(b)** G.S. 116D-3(c) is repealed.

51 **SECTION 8.3.(c)** Section 9.11(e) of S.L. 1999-237 is repealed.

52 **SECTION 8.3.(d)** Section 4 of S.L. 2005-198, as amended by Section 35 of S.L.
 53 2007-484, is repealed.

54 REPEAL DUPLICATIVE AUDIT REQUIREMENT

1 SECTION 8.4. G.S. 147-64.6A is repealed.

2
3 **UPDATE COLLEGE PERFORMANCE MEASURES**

4 SECTION 8.5. G.S. 115D-31.3 reads as rewritten:

5 "**§ 115D-31.3. Institutional performance accountability.**

6 (a) Creation of Accountability Measures and Performance Standards. – The State Board
7 of Community Colleges shall create new accountability measures and performance standards
8 for the Community College System. ~~Survey results shall be used as a performance standard~~
9 ~~only if the survey is statistically valid.~~ The State Board of Community Colleges shall review
10 annually the accountability measures and performance standards to ensure that they are
11 appropriate for use in recognition of successful institutional performance.

12 (b) through (d) Repealed by Session Laws 2000-67, s. 9.7, effective July 1, 2000.

13 (e) ~~Mandatory Performance Standards Measures.~~ – The State Board of Community
14 Colleges shall evaluate each college on the following eight performance ~~standards;measures:~~

- 15 (1) ~~Progress of basic skills students,students.~~
16 (2) ~~Passing rate for licensure and certification examinations,General Educational~~
17 ~~Development (GED) diploma examinations.~~
18 (3) ~~Performance of students who transfer to a four-year institution,institution.~~
19 (4) ~~PassingSuccess rates inof developmental courses,students in subsequent~~
20 ~~college-level English courses.~~
21 (5) ~~Success rates of developmental students in subsequent college-level~~
22 ~~courses,math courses.~~
23 (5a) ~~Progress of first-year curriculum students.~~
24 (6) ~~The level of satisfaction of students who complete programs and those who~~
25 ~~do not complete programs;~~
26 (7) ~~Curriculum student retention and graduation, andgraduation.~~
27 (8) ~~Client satisfaction with customized training.~~
28 (9) ~~Passing rate for licensure and certification examinations.~~

29 The State Board may also evaluate each college on additional performance ~~standards;measures.~~

30 (f) Publication of Performance Ratings. – Each college shall publish its performance on
31 the eight ~~standards;measures~~ set out in subsection (e) of this section (i) annually in its electronic
32 catalog or on the Internet and (ii) in its printed catalog each time the catalog is reprinted.

33 The Community Colleges System Office shall publish the performance of all colleges on all
34 eight ~~standards;measures.~~

35 (g) Recognition for Successful Institutional Performance. – For the purpose of
36 recognition for successful institutional performance, the State Board of Community Colleges
37 shall evaluate each college on the eight performance ~~standards;measures.~~ For each of these
38 eight performance ~~standards;measures~~ on which a college performs successfully, the college
39 may retain and carry forward into the next fiscal year one-fourth of one percent ($\frac{1}{4}$ of 1%) of its
40 final fiscal year General Fund appropriations. ~~If a college demonstrates significant~~
41 ~~improvement on a standard that has been in use for three years or less, the college may also~~
42 ~~carry forward one-fourth of one percent ($\frac{1}{4}$ of 1%) of its final fiscal year General Fund~~
43 ~~appropriations for that standard.~~

44 (h) Recognition for Exceptional Institutional Performance. – Funds not allocated to
45 colleges in accordance with subsection (g) of this section shall be used to reward exceptional
46 institutional performance. A college is deemed to have achieved exceptional institutional
47 performance if it succeeds on all eight performance measures. After all State aid budget
48 obligations have been met, the State Board of Community Colleges shall distribute the
49 remainder of these funds equally to colleges that perform successfully on eight performance
50 standards and meet the following criteria:achieve exceptional institutional performance status
51 based on the pro rata share of total full time equivalent (FTE) students served at each college.

- 52 (1) ~~The passing rate on all reported licensure and certification examinations for~~
53 ~~which the community colleges have authority over who sits for the~~
54 ~~examination must meet or exceed seventy percent (70%) for first time test~~
55 ~~takers; and~~
56 (2) ~~The percentage of college transfer students with a grade point average of at~~
57 ~~least 2.0 after two semesters at a four year institution must equal or exceed~~
58 ~~the performance of students who began college at that four year institution.~~

1 The State Board may withhold the portion of funds for which a college may qualify as an
2 exceptional institution while the college is under investigation by a State or federal agency or if
3 its performance does not meet the standards established by the Southern Association of
4 Colleges and Schools, the State Auditor's Office, or the State Board of Community Colleges.
5 The State Board may release the funds at such time as the investigations are complete and the
6 issues are resolved.

7 (i) Permissible Uses of Funds. – Funds retained by colleges or distributed to colleges
8 pursuant to this section shall be used for the purchase of equipment, initial program start-up
9 costs including faculty salaries for the first year of a program, and one-time faculty and staff
10 bonuses. These funds shall not be used for continuing salary increases or for other obligations
11 beyond the fiscal year into which they were carried forward. These funds shall be encumbered
12 within 12 months of the fiscal year into which they were carried forward.

13 (j) Use of funds in low-wealth counties. – Funds retained by colleges or distributed to
14 colleges pursuant to this section may be used to supplement local funding for maintenance of
15 plant if the college does not receive maintenance of plant funds pursuant to G.S. 115D-31.2,
16 and if the county in which the main campus of the community college is located meets all of
17 the following:

18 (1) Is designated as a Tier 1 county in accordance with G.S. 143B-437.08.

19 (2) Had an unemployment rate of at least two percent (2%) above the State
20 average or greater than seven percent (7%), whichever is higher, in the prior
21 calendar year.

22 (3) Is a county whose wealth, as calculated under the formula for distributing
23 supplemental funding for schools in low-wealth counties, is eighty percent
24 (80%) or less of the State average.

25 Funds may be used for this purpose only after all local funds appropriated for maintenance of
26 plant have been expended."
27

28 **MODIFY INSTITUTIONAL PERFORMANCE ACCOUNTABILITY FOR ONE YEAR**

29 **SECTION 8.6.** Effective for the 2011-2012 reporting year, and notwithstanding
30 G.S. 115D-31.3, the State Board of Community Colleges shall not require a college to report its
31 performance on the progress of basic skills students as one of the mandatory performance
32 standards prescribed by G.S. 115D-31.3(e). A college shall not be evaluated on the progress of
33 basic skills students for the purpose of recognizing successful institutional performance or
34 exceptional institutional performance. For each of the remaining seven performance standards
35 on which a college performs successfully, the college may retain and carry forward into the
36 2013-2014 fiscal year two-sevenths of one percent (2/7 of 1%) of its final fiscal year General
37 Fund appropriations.
38

39 **COMMUNITY COLLEGE TUITION WAIVER**

40 **SECTION 8.8.** G.S. 115D-5(b) reads as rewritten:

41 "(b) In order to make instruction as accessible as possible to all citizens, the teaching of
42 curricular courses and of noncurricular extension courses at convenient locations away from
43 institution campuses as well as on campuses is authorized and shall be encouraged. A pro rata
44 portion of the established regular tuition rate charged a full-time student shall be charged a
45 part-time student taking any curriculum course. In lieu of any tuition charge, the State Board of
46 Community Colleges shall establish a uniform registration fee, or a schedule of uniform
47 registration fees, to be charged students enrolling in extension courses for which instruction is
48 financed primarily from State funds. The State Board of Community Colleges may provide by
49 general and uniform regulations for waiver of tuition and registration fees for the following:

50 (1) Persons not enrolled in elementary or secondary schools taking courses
51 leading to a high school diploma or equivalent certificate.

52 (2) Courses requested by the following entities that support the organizations'
53 training needs and are on a specialized course list approved by the State
54 Board of Community Colleges:

55 a. Volunteer fire departments.

56 b. Municipal, county, or State fire departments.

57 c. Volunteer EMS or rescue and lifesaving departments.

58 d. Municipal, county, or State EMS or rescue and lifesaving
59 departments.

- 1 d1. Law enforcement, fire, EMS or rescue and lifesaving entities serving
 2 a lake authority that was created by a county board of commissioners
 3 prior to July 1, 2012.
 4 e. Radio Emergency Associated Communications Teams (REACT)
 5 under contract to a county as an emergency response agency.
 6 ~~(v) (vi) municipal county, or State law enforcement officers~~
 7 f. Municipal, county, or State law enforcement agencies.
 8 g. The Division of Adult Correction of the Department of Public Safety
 9 for the training of full-time custodial employees and employees of
 10 the Division's Section of Community Corrections of the Division of
 11 Adult Correction required to be certified under Chapter 17C of the
 12 General Statutes and the rules of the Criminal Justice and Training
 13 Standards Commission.
 14 h. The Division of Juvenile Justice of the Department of Public Safety
 15 for the training of employees required to be certified under Chapter
 16 17C of the General Statutes and the rules of the Criminal Justice and
 17 Training Standards Commission.
 18 i. The Eastern Band of Cherokee Indians law enforcement, fire, EMS
 19 or rescue and lifesaving tribal government departments or programs.
 20 (3) Repealed by Session Laws 2011-145, s. 8.12(a), effective July 1, 2011.
 21 (4) Trainees enrolled in courses conducted under the Customized Training
 22 Program.
 23 (5) through (9) Repealed by Session Laws 2011-145, s. 8.12(a), effective July 1,
 24 2011.
 25 (10) Elementary and secondary school employees enrolled in courses in first aid
 26 or cardiopulmonary resuscitation (CPR).
 27 (11) Up to six hours of credit instruction and one course of noncredit instruction
 28 per academic semester for senior citizens age 65 or older who are qualified
 29 as legal residents of North Carolina.
 30 (12) All curriculum courses taken by high school students at community colleges,
 31 in accordance with G.S. 115D-20(4) and this section.
 32 (13) Human resources development courses for any individual who (i) is
 33 unemployed; (ii) has received notification of a pending layoff; (iii) is
 34 working and is eligible for the Federal Earned Income Tax Credit (FEITC);
 35 or (iv) is working and earning wages at or below two hundred percent
 36 (200%) of the federal poverty guidelines.
 37 (14) Repealed by Session Laws 2011-145, s. 8.12(a), effective July 1, 2011.

38 The State Board of Community Colleges shall not waive tuition and registration fees for
 39 other individuals."
 40

41 **INCREASE MAXIMUM PARKING FINE**

42 **SECTION 8.9.** G.S. 115D-21 reads as rewritten:

43 **"§ 115D-21. Traffic regulations; fines and penalties.**

44 (a) All of the provisions of Chapter 20 of the General Statutes relating to the use of
 45 highways of the State of North Carolina and the operation of motor vehicles thereon shall apply
 46 to the streets, roads, alleys and driveways on the campuses of all institutions in the North
 47 Carolina Community College System. Any person violating any of the provisions of Chapter 20
 48 of the General Statutes in or on the streets, roads, alleys and driveways on the campuses of
 49 institutions in the North Carolina Community College System shall, upon conviction thereof,
 50 be punished as prescribed in this section and as provided by Chapter 20 of the General Statutes
 51 relating to motor vehicles. Nothing contained in this section shall be construed as in any way
 52 interfering with the ownership and control of the streets, roads, alleys and driveways on the
 53 campuses of institutions in the system as is now vested by law in the trustees of each individual
 54 institution in the North Carolina Community College System.

55 (b) The trustees are authorized and empowered to make additional rules and regulations
 56 and to adopt additional ordinances with respect to the use of the streets, roads, alleys and
 57 driveways and to establish parking areas on or off the campuses not inconsistent with the
 58 provisions of Chapter 20 of the General Statutes of North Carolina. Upon investigation, the
 59 trustees may determine and fix speed limits on streets, roads, alleys, and driveways subject to

1 such rules, regulations, and ordinances, lower than those provided in G.S. 20-141. The trustees
 2 may make reasonable provisions for the towing or removal of unattended vehicles found to be
 3 in violation of rules, regulations and ordinances. All rules, regulations and ordinances adopted
 4 pursuant to the authority of this section shall be recorded in the proceedings of the trustees;
 5 shall be printed; and copies of such rules, regulations and ordinances shall be filed in the office
 6 of the Secretary of State of North Carolina. Violation of any such rules, regulations, or
 7 ordinances, is an infraction punishable by a penalty of not more than one hundred dollars
 8 (\$100.00).

9 Regardless of whether an institution does its own removal and disposal of motor vehicles or
 10 contracts with another person to do so, the institution shall provide a hearing procedure for the
 11 owner. For purposes of this subsection, the definitions in G.S. 20-219.9 apply.

- 12 (1) If the institution operates in such a way that the person who tows the vehicle
 13 is responsible for collecting towing fees, all provisions of Article 7A,
 14 Chapter 20, apply.
- 15 (2) If the institution operates in such a way that it is responsible for collecting
 16 towing fees, it shall:
- 17 a. Provide by contract or ordinance for a schedule of reasonable towing
 18 fees,
 - 19 b. Provide a procedure for a prompt fair hearing to contest the towing,
 - 20 c. Provide for an appeal to district court from that hearing,
 - 21 d. Authorize release of the vehicle at any time after towing by the
 22 posting of a bond or paying of the fees due, and
 - 23 e. If the institution chooses to enforce its authority by sale of the
 24 vehicle, provide a sale procedure similar to that provided in
 25 G.S. 44A-4, 44A-5, and 44A-6, except that no hearing in addition to
 26 the probable cause hearing is required. If no one purchases the
 27 vehicle at the sale and if the value of the vehicle is less than the
 28 amount of the lien, the institution may destroy it.

29 (c) The trustees may by rules, regulations, or ordinances provide for a system of
 30 registration of all motor vehicles where the owner or operator does park on the campus or keeps
 31 said vehicle on the campus. The trustees shall cause to be posted at appropriate places on
 32 campus notice to the public of applicable parking and traffic rules, regulations, and ordinances
 33 governing the campus over which it has jurisdiction. The trustees may by rules, regulations, or
 34 ordinances establish or cause to have established a system of citations that may be issued to
 35 owners or operators of motor vehicles who violate established rules, regulations, or ordinances.
 36 The trustees shall provide for the administration of said system of citations; establish or cause
 37 to be established a system of fines to be levied for the violation of established rules, regulations
 38 and ordinances; and enforce or cause to be enforced the collection of said fines. The fine for
 39 each offense shall not exceed ~~five dollars (\$5.00), which funds shall be retained in the~~
 40 ~~institution and expended in the discretion of the trustees;~~ twenty-five dollars (\$25.00). The
 41 trustees shall be empowered to exercise the right to prohibit repeated violators of such rules,
 42 regulations, or ordinances from parking on the campus.

43 (d) The clear proceeds of all civil penalties collected pursuant to this section shall be
 44 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

46 POWERS OF THE STATE BOARD OF PROPRIETARY SCHOOLS

47 **SECTION 8.9A.(a)** Article 8 of Chapter 115D of the General Statutes is amended
 48 by adding a new section to read:

49 **"§ 115D-89.4. Powers of the State Board of Proprietary Schools.**

50 (a) In order to carry out the purposes of this Article, the State Board of Proprietary
 51 Schools, subject to other provisions of this Article, shall:

- 52 (1) Have the powers of a body corporate, including the power to make contracts
 53 and to alter the same as may be deemed expedient;
- 54 (2) Be authorized and empowered to rent and lease such property, real or
 55 personal, as the State Board of Proprietary Schools may deem proper to
 56 carry out the purposes and provisions of this Article, all or any of them;
- 57 (3) Establish an office for the transaction of its business at such place or places
 58 as, in the opinion of the State Board of Proprietary Schools, shall be
 59 advisable or necessary in carrying out the purposes of this Article;

- 1 (4) Be authorized and empowered to pay from the Commercial Education Fund
 2 all necessary costs and expenses involved in and incident to the formation,
 3 organization, and administration of the State Board of Proprietary Schools
 4 and all other costs and expenses reasonably necessary or expedient in
 5 carrying out and accomplishing the purposes of this Article; and
 6 (5) Be authorized and empowered to do any and all other acts and things in this
 7 Article authorized or required to be done, whether or not included in the
 8 general powers listed in this section.

9 (b) The purchase of goods and services by the State Board of Proprietary Schools shall
 10 be exempt from the requirements of Article 3 of Chapter 143 of the General Statutes."

11 **SECTION 8.9A.(b)** G.S. 115D-89.2 reads as rewritten:

12 **"§ 115D-89.2. Office of Proprietary Schools; staff.**

13 The Office of Proprietary Schools shall be the principal administrative unit under the
 14 direction of the State Board of Proprietary Schools. Unless otherwise specified in
 15 G.S. 115D-89.3, the State Board of Proprietary Schools has authority to recommend for
 16 adoption and to administer all policies, regulations, and standards which it deems necessary for
 17 the operation of the Office of Proprietary Schools.

18 The State Board of Proprietary Schools shall hire an executive director of the Office of
 19 Proprietary Schools, who shall serve as chief administrative officer of the Office of Proprietary
 20 Schools, or contract with an outside consultant to serve as the executive director. The
 21 compensation of this position shall be fixed by the State Board of Proprietary Schools from
 22 funds provided by fees deposited in the Commercial Education Fund.

23 The State Board of Proprietary Schools may hire other employees as it deems necessary to
 24 carry out the provisions of this Article. The compensation of the staff members hired by the
 25 State Board of Proprietary Schools shall be fixed by the State Board of Proprietary Schools
 26 upon recommendation of the Executive Director of the Office of Proprietary Schools. The
 27 Executive Director shall provide an annual projected operating budget to the State Board of
 28 Proprietary Schools at a time each year designated by the State Board of Proprietary Schools.
 29 The budget will be approved by the State Board of Proprietary Schools from funds provided by
 30 fees deposited in the Commercial Education Fund."

31 **SECTION 8.9A.(c)** G.S. 126-5(c2) is amended by adding a new subdivision to
 32 read:

33 "(c2) The provisions of this Chapter shall not apply to:

- 34 (1) Public school superintendents, principals, teachers, and other public school
 35 employees.
 36 (2) Recodified as G.S. 126-5(c)(4) by Session Laws 1985 (Regular Session,
 37 1986), c. 1014, s. 41.
 38 (3) Employees of community colleges whose salaries are fixed in accordance
 39 with the provisions of G.S. 115D-5 and G.S. 115D-20, and employees of the
 40 Community Colleges System Office whose salaries are fixed by the State
 41 Board of Community Colleges in accordance with the provisions of
 42 G.S. 115D-3.
 43 (4) Employees of the Office of Proprietary Schools whose salaries are fixed by
 44 the State Board of Proprietary Schools in accordance with the provisions of
 45 G.S. 115D-89.2."

47 **AUTHORIZATION TO SPEND FUNDS FOR CERTAIN PURPOSES**

48 **SECTION 8.9B.** Notwithstanding G.S. 143C-6-5, the State Board of Community
 49 Colleges may authorize the use of funds within the Community College System budget to do
 50 the following:

- 51 (1) Fund college-level mathematics at the Tier 1 level.
 52 (2) Eliminate the scheduled continuing education fee increase.
 53 (3) Restructure the multicampus funding formula and provide up to two million
 54 nine hundred twenty-two thousand five hundred forty-two dollars
 55 (\$2,922,542) in additional funds for that program.

57 **FINANCIAL AID PROGRAM ADMINISTRATIVE COSTS**

58 **SECTION 8.11.(a)** Subsection (a) of Section 9.8 of S.L. 2011-145, as amended by
 59 Section 2(b) of S.L. 2011-340, reads as rewritten:

1 "SECTION 9.8.(a) There is appropriated from the Escheat Fund income to the Board of
2 Governors of The University of North Carolina the sum of forty-nine million six hundred
3 twenty-two thousand two hundred forty-two dollars (\$49,622,242) for the 2011-2012 fiscal
4 year and the sum of ~~thirty-two million one hundred twenty-two thousand two hundred~~
5 ~~forty-two dollars (\$32,122,242)~~ thirty-seven million two hundred eighty-seven thousand two
6 hundred forty-two dollars (\$37,287,242) for the 2012-2013 fiscal year to be used for The
7 University of North Carolina Need-Based Financial Aid Program."

8 SECTION 8.11.(b) Subsection (c) of Section 9.8 of S.L. 2011-145 reads as
9 rewritten:

10 "SECTION 9.8.(c) There is appropriated from the Escheat Fund income to the State Board
11 of Community Colleges the sum of sixteen million five hundred thousand dollars (\$16,500,000)
12 for the 2011-2012 fiscal year and the sum of ~~sixteen million five hundred thousand dollars~~
13 ~~(\$16,500,000)~~ sixteen million three hundred thirty-five thousand dollars (\$16,335,000) for the
14 2012-2013 fiscal year to be used for community college grants."

15 SECTION 8.11.(c) G.S. 115D-40.1(c) reads as rewritten:

16 "(c) Administration of Program. – The State Board shall adopt rules and policies for the
17 disbursement of the financial assistance provided in subsections (a) and (b) of this section.
18 Degree, diploma, and certificate students must complete a Free Application for Federal Student
19 Aid (FAFSA) to be eligible for financial assistance. The State Board may contract with the
20 State Education Assistance Authority for administration of these financial assistance funds.
21 These funds shall not revert at the end of each fiscal year but shall remain available until
22 expended for need-based financial assistance. The interest earned on the funds provided in
23 subsections (a) and (b) of this section may be used to support the costs of administering the
24 Community College Grant Program. If the interest earnings are not adequate to support the
25 administrative costs, up to one percent (1%) of funds provided in subsection (a) of this section
26 may be used to support the costs of administering the Community College Grant Program."
27

28 PART IX. UNIVERSITIES

29 STUDENT FINANCIAL AID/TECHNICAL CORRECTIONS

30 SECTION 9.2.(a) Section 9.18(d) of S.L. 2011-145 reads as rewritten:

31 "SECTION 9.18.(d) The State Education Assistance Authority shall report no later than
32 June 1, 2013, September 1, 2013, to the Joint Legislative Education Oversight Committee
33 regarding the implementation of this section. The report shall contain, for the 2012-2013
34 academic year, the amount of scholarship and grant money disbursed, the number of students
35 eligible for the funds, the number of eligible students receiving the funds, and a breakdown of
36 the eligible private postsecondary institutions that received the funds."

37 SECTION 9.2.(b) Section 9.18(i) of S.L. 2011-145 reads as rewritten:

38 "SECTION 9.18.(i) Subsections (a), (d), and (i) of this section become effective July 1,
39 2011. Article 34 of Chapter 116 of the General Statutes, as enacted by subsection (a) of this
40 section, applies to the 2012-2013 academic year and each subsequent academic year, except
41 that the rule-making authority for the State Education Assistance Authority under
42 G.S. 116-283(a) becomes effective immediately on July 1, 2011. Subsections (b), (c), (e), (f),
43 (g), and (h) of this section become effective July 1, ~~2012-2012,~~ except that the State Education
44 Assistance Authority may continue to make payments pursuant to G.S. 116-43.5 until August
45 1, 2012, to students who attended certain private institutions of higher education in the
46 2011-2012 academic year."
47

48 SECTION 9.2.(c) Of the funds appropriated by this act to the Board of Governors
49 for the 2012-2013 fiscal year and allocated to the State Education Assistance Authority for the
50 North Carolina Need-Based Scholarships for Students Attending Private Institutions of Higher
51 Education pursuant to Article 34 of Chapter 116 of the General Statutes, the State Education
52 Assistance Authority may use up to two hundred eighty-one thousand five hundred seventeen
53 dollars (\$281,517) to make the payments authorized by subsection (b) of this section to
54 students who attended certain private institutions of higher education in the 2011-2012
55 academic year.
56

57 UNC/REPEAL OBSOLETE OR REDUNDANT REPORTING REQUIREMENTS

58 SECTION 9.4.(a) G.S. 116-11(10a) reads as rewritten:

1 "(10a) The Board of Governors, the State Board of Community Colleges, and the
2 State Board of Education, in consultation with nonprofit postsecondary
3 educational institutions shall plan a system to provide an exchange of
4 information among the public schools and institutions of higher education to
5 be implemented no later than June 30, 1995. As used in this section,
6 "institutions of higher education" shall mean (i) public higher education
7 institutions defined in G.S. 116-143.1(a)(3), and (ii) those nonprofit
8 postsecondary educational institutions as described in G.S. 116-280 that
9 choose to participate in the information exchange. The information shall
10 include:

- 11 a. The number of high school graduates who apply to, are admitted to,
12 and enroll in institutions of higher education;
- 13 b. College performance of high school graduates for the year
14 immediately following high school graduation including each
15 student's: need for remedial coursework at the institution of higher
16 education that the student attends; performance in standard freshmen
17 courses; and continued enrollment in a subsequent year in the same
18 or another institution of higher education in the State;
- 19 c. The progress of students from one institution of higher education to
20 another; and
- 21 d. Consistent and uniform public school course information including
22 course code, name, and description.

23 The Department of Public Instruction shall generate and the local school
24 administrative units shall use standardized transcripts in an automated
25 format for applicants to higher education institutions. The standardized
26 transcript shall include grade point average, class rank, end-of-course test
27 scores, and uniform course information including course code, name, units
28 earned toward graduation, and credits earned for admission from an
29 institution of higher education. The grade point average and class rank shall
30 be calculated by a standard method to be devised by the institutions of
31 higher education. ~~The Board of Governors shall coordinate a joint progress
32 report on the implementation of the system to provide an exchange of
33 information among the public and independent colleges and universities, the
34 community colleges, and the public schools. The report shall be made to the
35 Joint Legislative Education Oversight Committee no later than February 15,
36 1993, and annually thereafter."~~

37 **SECTION 9.4.(b)** G.S. 116-11(12a) reads as rewritten:

38 "(12a) The Board of Governors of The University of North Carolina shall
39 implement, administer, and revise programs for meaningful professional
40 development for professional public school employees based upon the
41 evaluations and recommendations made by the State Board of Education
42 under G.S. 115C-12(26). The programs shall be aligned with State education
43 goals and directed toward improving student academic achievement. ~~The
44 Board of Governors shall submit to the State Board of Education an annual
45 report evaluating the professional development programs administered by
46 the Board of Governors."~~

47 **SECTION 9.4.(c)** G.S. 116D-3(a)(1) is repealed.

48 **SECTION 9.4.(d)** Section 7 of S.L. 1989-936, as amended by S.L. 1991-346, reads
49 as rewritten:

50 "Sec. 7. The Board of Governors of The University of North Carolina shall adopt standards
51 to create and enhance an organized program of public service and technical assistance to the
52 public schools. This program shall:

- 53 (1) Provide systematic access for public schools to consultation and advice
54 available from members of the faculties of the constituent institutions;
- 55 (2) Facilitate and encourage research in the public schools and the application of
56 the results of this research;
- 57 (3) Link the education faculties of the constituent institutions with public school
58 teachers and administrators through public service requirements for the
59 education faculties; and

- (4) Create partnerships among all constituent institutions, their schools or departments of education, and the maximum number of public schools that could benefit from these partnerships.

~~The Board of Governors shall report on an annual basis to the Joint Legislative Commission on Governmental Operations on its progress in implementing the provisions of this section."~~

SECTION 9.4.(e) Section 1.1 of S.L. 2000-3 reads as rewritten:

"Section 1.1. The General Assembly finds that although The University of North Carolina is one of the State's most valuable assets, the current facilities of the University have been allowed to deteriorate due to decades of neglect and have unfortunately fallen into a state of disrepair because of inadequate attention to maintenance. It is the intent of the General Assembly to reverse this trend and to provide a mechanism to assure that the University's capital assets are adequately maintained. The General Assembly commits to responsible stewardship of these assets to protect their value over the years, as follows:

- (1) The Board of Governors of The University of North Carolina shall require each constituent and affiliated institution to monitor the condition of its facilities and their needs or repair and renovation, and to assure that all necessary maintenance is carried out within funds available.
- (2) ~~The Board of Governors shall report annually to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Education Oversight Committee on the condition of the University's capital facilities, the repair, renovation, and maintenance projects being undertaken, and all needs for additional funding to maintain the facilities.~~
- (3) It is the intent of the General Assembly to assure that adequate oversight, funding, and accountability are continually provided so that the capital facilities of the University are properly maintained to preserve the level of excellence the citizens of this State deserve. To this end, the Joint Legislative Education Oversight Committee shall report to the General Assembly annually its recommendations for legislative changes to implement this policy."

SECTION 9.4.(f) Section 6 of S.L. 2000-3 reads as rewritten:

~~"Section 6. Repair and Renovation Reports. – The Board of Governors of The University of North Carolina shall report annually to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Education Oversight Committee on the condition of all of the University's capital facilities, including a status report on all repair, renovation, and maintenance projects being undertaken and an assessment of needs for additional funding to repair, renovate, and maintain the facilities.~~

The Board of Governors of The University of North Carolina shall also study the repairs and renovations formula currently utilized with respect to funding for the Repairs and Renovations Reserve Account to determine whether it adequately takes into account all of the appropriate maintenance needs of each constituent and affiliated institution, and shall recommend to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Education Oversight Committee any changes necessary to improve the formula. The Board shall make recommendations on the scope and adequacy of the methodology used to calculate the funding for the repairs and renovations reserve as specified in G.S. 143-15.2."

SECTION 9.4.(g) Section 13 of S.L. 2001-496 is repealed.

NC GRADUATES IN PRIMARY CARE CENTERS/CHANGE REPORT DATE

SECTION 9.5. G.S. 143-613(d) reads as rewritten:

"(d) The progress of the private and State-operated medical schools and State-operated health professional schools towards increasing the number and proportion of graduates entering primary care shall be monitored annually by the Board of Governors of The University of North Carolina. Monitoring data shall include (i) the entry of State-supported graduates into primary care residencies and clinical training programs, and (ii) the specialty practices by a physician and each midlevel provider who were State-supported graduates as of a date five years after graduation. The Board of Governors shall certify data on graduates, their residencies and clinical training programs, and subsequent careers by ~~October 1~~ November 15 of each calendar year, beginning in ~~October of 1995~~ November of 2011, to the Fiscal Research Division of the Legislative Services Office and to the Joint Legislative Education Oversight Committee."

1
2 **PERMANENT TRANSFER OF FUNDING FOR MILITARY ONE-STOP & BRAC**
3 **OUTREACH**

4 **SECTION 9.7.** The Military One-Stop & BRAC Outreach program previously
5 vested in Fayetteville State University is transferred to The University of North Carolina
6 General Administration with all of the elements of a Type I transfer as defined in G.S. 143A-6.
7 The program transfer shall include the sum of two hundred fifty-one thousand five hundred
8 dollars (\$251,500).
9

10 **STUDY UNC TUITION SURCHARGE**

11 **SECTION 9.8.** The Fiscal Research Division, in cooperation with The University
12 of North Carolina, shall study the tuition surcharge mandated by G.S. 116-143.7. As part of
13 the study, the Fiscal Research Division shall examine the surcharge's effect, if any, on the
14 number of credit hours taken by students at constituent institutions of The University of North
15 Carolina and the resulting effect on the timely achievement of graduation; the number of
16 students subject to the surcharge in each of the last five academic years; and the revenue
17 generated by the surcharge. In its study, the Fiscal Research Division shall also examine the
18 methods that The University of North Carolina employs to provide notice to a student that the
19 student is approaching the credit hour limit and will be charged the tuition surcharge if the
20 student exceeds that limit.

21 The Fiscal Research Division shall report its findings and recommendations,
22 including any legislative recommendations, by January 1, 2013, to the Joint Legislative
23 Education Oversight Committee and to the Education Appropriation Subcommittees of the
24 House of Representatives and the Senate.
25

26 **UNC STUDENT FEES/INSTITUTIONAL TRUST FUNDS**

27 **SECTION 9.9.** G.S. 116-36.1(g) is amended by adding a new subdivision to read:

28 "(12) Any other moneys collected by an institution as student fees previously
29 approved by the Board of Governors."
30

31 **UNC ACQUISITION AND DISPOSITION OF REAL PROPERTY**

32 **SECTION 9.10.(a)** G.S. 116-31.12 reads as rewritten:

33 "**§ 116-31.12. Acquisition of real property by lease.**

34 Notwithstanding G.S. 143-341(4), and in addition to the powers granted in
35 G.S. 116-198.34(5), the Board of Governors may authorize the constituent institutions and the
36 General Administration to acquire or dispose of real property by lease if the lease is for a term
37 of not more than 10 years. The Board of Governors shall establish a policy for acquiring and
38 disposing of an interest in real property for the use of The University of North Carolina and its
39 constituent institutions by lease. This policy may delegate authorization of the acquisition or
40 disposition of real property by lease to the boards of trustees of the constituent institutions or to
41 the President of The University of North Carolina. The Board of Governors shall submit all
42 initial policies adopted pursuant to this section to the State Property Office for review prior to
43 adoption by the Board. Any subsequent changes to these policies adopted by the Board of
44 Governors shall be submitted to the State Property Office for review. Any comments by the
45 State Property Office shall be submitted to the President of The University of North Carolina.
46 After the acquisition or disposition of an interest in real property by lease, The University of
47 North Carolina shall promptly file a report concerning the acquisition or disposition to the
48 Secretary of Administration. Acquisitions and dispositions of an interest in real property by
49 lease pursuant to this section shall not be subject to the provisions of Article 36 of Chapter 143
50 of the General Statutes or to the provisions of ~~Article 6~~ Article 6 or 7 of Chapter 146 of the
51 General Statutes."

52 **SECTION 9.10.(b)** G.S. 116-198.34(5) reads as rewritten:

53 "(5) To acquire, hold, lease, and dispose of real and personal property in the
54 exercise of its powers and the performance of its duties hereunder and to
55 lease all or any part of any project or projects and any existing facilities upon
56 such terms and conditions as the Board determines, subject to the provisions
57 of G.S. 143-341 and Chapter 146 of the General Statutes.

58 Notwithstanding G.S. 143-341 and Chapter 146 of the General Statutes,
59 a disposition by easement, lease, or rental agreement of space in any

1 building on the Centennial Campus, on the Horace Williams Campus, ~~or on~~
2 a Millennial ~~Campus~~ Campus, or on the Kannapolis Research Campuses
3 made for a period of 10 years or less shall not require the approval of the
4 Governor and the Council of State. All other acquisitions and dispositions
5 made under this subdivision for a period in excess of 10 years are subject to
6 the provisions of G.S. 143-341 and Chapter 146 of the General Statutes."
7

8 ECU PHYSICIANS INTEREST AND PENALTY FEES COLLECTION PRACTICE

9 **SECTION 9.11.(a)** G.S. 143-553(a) reads as rewritten:

10 "(a) All persons employed by an employing entity as defined by this Part who owe
11 money to the State and whose salaries are paid in whole or in part by State funds must make
12 full restitution of the amount owed as a condition of continuing employment; provided,
13 however, that no employing entity shall terminate for failure to make full restitution the
14 employment of such an employee who owes money to the University of North Carolina Health
15 Care System or to East Carolina University's Division of Health Sciences for health care
16 services."

17 **SECTION 9.11.(b)** G.S. 147-86.11(e) reads as rewritten:

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

- 20 (1) Except as otherwise provided by law, moneys received by employees of
21 State agencies in the normal course of their employment shall be deposited
22 as follows:
 - 23 a. Moneys received in trust for specific beneficiaries for which the
24 employee-custodian has a duty to invest shall be deposited with the
25 State Treasurer under the provisions of G.S. 147-69.3.
 - 26 b. All other moneys received shall be deposited with the State Treasurer
27 pursuant to G.S. 147-77 and G.S. 147-69.1.
- 28 (2) Moneys received shall be deposited daily in the form and amounts received,
29 except as otherwise provided by statute.
- 30 (3) Moneys due to a State agency by another governmental agency or by private
31 persons shall be promptly billed, collected and deposited.
- 32 (4) Unpaid billings due to a State agency other than amounts owed by patients
33 to the University of North Carolina Health Care System or East Carolina
34 University's Division of Health Sciences shall be turned over to the Attorney
35 General for collection no more than 90 days after the due date of the billing,
36 except that a State agency need not turn over to the Attorney General unpaid
37 billings of less than five hundred dollars (\$500.00), or (for institutions where
38 applicable) amounts owed by all patients which are less than the federally
39 established deductible applicable to Part A of the Medicare program, and
40 instead may handle these unpaid bills pursuant to agency debt collection
41 procedures.
- 42 (4a) The University of North Carolina Health Care System and East Carolina
43 University's Division of Health Sciences may turn over to the Attorney
44 General for collection accounts owed by patients.
- 45 (5) Moneys received in the form of warrants drawn on the State Treasurer shall
46 be deposited by the State agency directly with the State Treasurer and not
47 through the banking system, unless otherwise approved by the State
48 Treasurer.
- 49 (6) State agencies shall accept payment by electronic payment in accordance
50 with G.S. 147-86.22 to the maximum extent possible consistent with sound
51 business practices."

52 **SECTION 9.11.(c)** G.S. 147-86.23 reads as rewritten:

53 "§ 147-86.23. Interest and penalties.

54 A State agency shall charge interest at the rate established pursuant to G.S. 105-241.21 on a
55 past-due account receivable from the date the account receivable was due until it is paid. A
56 State agency shall add to a past-due account receivable a late payment penalty of no more than
57 ten percent (10%) of the account receivable. A State agency may waive a late-payment penalty
58 for good cause shown. If another statute requires the payment of interest or a penalty on a
59 past-due account receivable, this section does not apply to that past-due account receivable.

1 This section does not apply to money owed to the University of North Carolina Health Care
2 System or to East Carolina University's Division of Health Sciences for health care services."
3

4 **ECU MAY RETAIN RENTAL RECEIPTS FROM HEALTH CARE SERVICE**
5 **PROVIDERS CO-LOCATED IN CAMPUS FACILITIES**

6 **SECTION 9.12.** G.S. 146-30(c) reads as rewritten:

7 "(c) The amount or rate of such service charge shall be fixed by rules and regulations
8 adopted by the Governor and approved by the Council of State, but as to any particular sale,
9 lease, rental, or other disposition, it shall not exceed ten percent (10%) of the gross amount
10 received from such sale, lease, rental, or other disposition. Notwithstanding any other provision
11 of this Subchapter, the net proceeds derived from the sale of land or products of land owned by
12 or under the supervision and control of the Wildlife Resources Commission, or acquired or
13 purchased with funds of that Commission, shall be paid into the Wildlife Resources Fund.
14 Provided, however, the net proceeds derived from the sale of land or timber from land owned
15 by or under the supervision and control of the Department of Agriculture and Consumer
16 Services shall be deposited with the State Treasurer in a capital improvement account to the
17 credit of the Department of Agriculture and Consumer Services, to be used for such specific
18 capital improvement projects or other purposes as are provided by transfer of funds from those
19 accounts in the Capital Improvement Appropriations Act. Provided further, the net proceeds
20 derived from the sale of park land owned by or under the supervision and control of the
21 Department of Environment and Natural Resources shall be deposited with the State Treasurer
22 in a capital improvement account to the credit of the Department of Administration to be used
23 for the purpose of park land acquisition as provided by transfer of funds from those accounts in
24 the Capital Improvement Appropriations Act. In the Capital Improvement Appropriations Act,
25 line items for purchase of park and agricultural lands will be established for use by the
26 Departments of Administration and Agriculture. The use of such funds for any specific capital
27 improvement project or land acquisition is subject to approval by the Director of the Budget.
28 No other use may be made of funds in these line items without approval by the General
29 Assembly except for incidental expenses related to the project or land acquisition. Additionally
30 with the approval of the Director of the Budget, either Department may request funds from the
31 Contingency and Emergency Fund when the necessity of prompt purchase of available land can
32 be demonstrated and funds in the capital improvement accounts are insufficient. Provided
33 further, the net proceeds derived from the sale of any portion of the land owned by the State in
34 or around the Butner Reservation on or after July 1, 1980, shall be deposited with the State
35 Treasurer in a capital improvement account to the credit of the Department of Health and
36 Human Services to make capital improvements on or to property owned by the State in the
37 Butner Reservation subject to approval by the Office of State Budget and Management, and
38 may be used to build industrial access roads to industries located or to be located on the Butner
39 Reservation, to construct new city streets in the Butner Reservation, extend water and sewer
40 service on the Butner Reservation, repair storm drains on the Butner Reservation, and for other
41 capital uses on the Reservation as determined by the Secretary. Provided further,
42 notwithstanding any other provision of this Subchapter, the proceeds derived from the lease
43 dispositions of land or facilities owned or under the supervision and control of East Carolina
44 University's Division of Health Sciences for the delivery of health care services shall be
45 deposited in clinical accounts at East Carolina University to be used to improve access to
46 patient care."
47

48 **UNC PARTNERSHIP FOR NATIONAL SECURITY**

49 **SECTION 9.13.** The University of North Carolina may use funds available to it for
50 the 2012-2013 fiscal year to continue and expand its work on the UNC Partnership for National
51 Security to benefit the United States Marine Corps at Camp Lejeune and to build further its
52 faculty and student capabilities in developing technologies for the special operations
53 community. The Partnership works to connect the resources of The University of North
54 Carolina system to the needs of our military, its service members, veterans, their families, and
55 the defense industry in North Carolina. Partnership activities include all of the following:
56 degree program development for service members and the defense industry; short courses,
57 training, and subject matter expertise exchange; science and technology product development
58 for the battle space; and scholar support, such as internships for The University of North
59 Carolina system students, faculty research, and senior service college fellows. The Partnership's

1 work has included the expansion of a "UNC at Fort Bragg" program that was previously in
2 place for the Army.

4 **UNC/FUNDS FOR CAMPUSES SPECIALIZING IN THE ARTS AND SCIENCES**

5 **SECTION 9.14.(a)** Of the funds appropriated to The University of North Carolina
6 by this act for the 2012-2013 fiscal year, the sum of five million six hundred seventy-seven
7 thousand nine hundred seven dollars (\$5,677,907) shall be allocated to the following campuses
8 specializing in the arts and sciences in the following amounts:

- 9 (1) \$2,485,144 for the University of North Carolina School of the Arts.
- 10 (2) \$1,556,495 for the University of North Carolina at Asheville.
- 11 (3) \$1,636,268 for the North Carolina School of Science and Mathematics.

12 **SECTION 9.14.(b)** It is the intent of the General Assembly that the Board of
13 Governors shall not otherwise reduce appropriations to these three campuses as a result of the
14 allocations directed in subsection (a) of this section.

16 **LIABILITY INSURANCE**

17 **SECTION 9.15.** G.S. 116-11 is amended by adding a new subdivision to read:

18 "(13a) The Board of Governors may authorize the President to purchase
19 commercial insurance of any kind to cover all risks or potential liability of
20 the University, the Board of Governors, President, the University benefit
21 plan administrators, and employees and agents of the University relating to
22 the management, direction, and administration of University employee
23 benefit plans, including the risks and potential liability related to benefit plan
24 investments managed by the University.

25 Members of the Board of Governors and employees of the University
26 shall be considered State employees for purposes of Articles 31 and 31A of
27 Chapter 143 of the General Statutes. To the extent that the President
28 purchases commercial liability insurance coverage in excess of one hundred
29 fifty thousand dollars (\$150,000) per claim for liability arising under Article
30 31 or 31A of Chapter 143 of the General Statutes, the provisions of
31 G.S. 143-299.4 shall not apply. To the extent that the President purchases
32 commercial insurance coverage for liability arising under Article 31 or 31A
33 of Chapter 143 of the General Statutes, the provisions of G.S. 143-300.6(a)
34 shall not apply.

35 The purchase of insurance by the President under this section shall not be
36 construed to waive sovereign immunity or any other defense available to the
37 University, the Board of Governors, President, University benefit plan
38 administrators, and employees and agents of the University in an action or
39 contested matter in any court, agency, or tribunal. The purchase of insurance
40 by the President shall not be construed to alter or expand the limitations on
41 claims or payments established in G.S. 143-299.2 or limit the right of the
42 University, the Board of Governors, President, University benefit plan
43 administrators, and employees and agents of the University to defense by the
44 State as provided by G.S. 143-300.3."

46 **PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES**

48 **NC PRE-K**

49 **SECTION 10.1.(a)** The Division of Child Development and Early Education shall
50 require the NC Pre-K contractor to issue multiple-year contracts for licensed private child care
51 centers providing NC Pre-K classrooms.

52 **SECTION 10.1.(b)** The Division of Child Development and Early Education shall
53 continue the implementation of the NC Pre-K program. The NC Pre-K shall serve children who
54 reach the age of four on or before August 31 of that school year and who meet eligibility
55 criteria.

56 **SECTION 10.1.(c)** G.S. 110-91(2) reads as rewritten:

57 "(2) Health-Related Activities. – ~~The Commission shall adopt rules for child care~~
58 ~~facilities to ensure that all children receive nutritious food and beverages~~
59 ~~according to their developmental needs. The Commission shall consult with~~

1 the Division of Child Development of the Department of Health and Human
 2 Services to develop nutrition standards to provide for requirements
 3 appropriate for children of different ages. In developing nutrition standards,
 4 the Commission shall consider the following recommendations:

- 5 a. ~~Limiting or prohibiting the serving of sweetened beverages, other~~
 6 ~~than 100% fruit juice, to children of any age.~~
- 7 b. ~~Limiting or prohibiting the serving of whole milk to children two~~
 8 ~~years of age or older or flavored milk to children of any age.~~
- 9 c. ~~Limiting or prohibiting the serving of more than six ounces of juice~~
 10 ~~per day to children of any age.~~
- 11 d. ~~Limiting or prohibiting the serving of juice from a bottle.~~
- 12 e. ~~Creating an exception from the rules for parents of children who~~
 13 ~~have medical needs, special diets, or food allergies.~~
- 14 f. ~~Creating an exception from the rules to allow a parent or guardian, or~~
 15 ~~to allow the center upon the request of a parent or guardian, to~~
 16 ~~provide to a child food and beverages that may not meet the nutrition~~
 17 ~~standards.~~

18 g. Nutrition standards. – The Commission shall adopt rules for child
 19 care facilities to ensure that food and beverages provided by a child
 20 care facility are nutritious and align with children's developmental
 21 needs. The Commission shall consult with the Division of Child
 22 Development and Early Education of the Department of Health and
 23 Human Services to develop nutrition standards to provide for
 24 requirements appropriate for children of different ages. In developing
 25 nutrition standards, the Commission shall consider the following
 26 recommendations:

- 27 1. Limiting or prohibiting the serving of sweetened beverages,
 28 other than one hundred percent (100%) fruit juice to children
 29 of any age.
- 30 2. Limiting or prohibiting the serving of whole milk to children
 31 two years of age or older or flavored milk to children of any
 32 age.
- 33 3. Limiting or prohibiting the serving of more than six ounces of
 34 juice per day to children of any age.
- 35 4. Limiting or prohibiting the serving of juice from a bottle.

36 h. Parental exceptions. –

- 37 1. Parents or guardians of a child enrolled in a child care facility
 38 may (i) provide food and beverages to their child that may not
 39 meet the nutrition standards adopted by the Commission and
 40 (ii) opt out of any supplemental food program provided by the
 41 child care facility. The child care facility shall not provide
 42 food or beverages to a child whose parent or guardian has
 43 opted out of any supplemental food program provided by the
 44 child care facility and whose parent or guardian is providing
 45 food and beverages for the child.
- 46 2. The Commission, the Division of Child Development and
 47 Early Education of the Department of Health and Human
 48 Services, or any State agency or contracting entity with a
 49 State agency shall not evaluate the nutritional value or
 50 adequacy of the components of food and beverages provided
 51 by a parent or guardian to his or her child enrolled in a child
 52 care facility as an indicator of environmental quality ratings.

53 i. Rest time. – Each child care facility shall have a rest period for each
 54 child in care after lunch or at some other appropriate time and
 55 arrange for each child in care to be out-of-doors each day if weather
 56 conditions permit."

57 **SECTION 10.1.(d)** The Division of Child Development and Early Education shall
 58 establish a standard decision-making process to be used by local NC Pre-K committees in
 59 awarding NC Pre-K classroom slots and student selection.

1 **SECTION 10.1.(e)** The Division of Child Development and Early Education shall
2 submit an annual report no later than March 15 of each year to the Joint Legislative
3 Commission on Governmental Operations, the Joint Legislative Oversight Committee on
4 Health and Human Services, the Senate Appropriations Committee on Health and Human
5 Services, the House of Representatives Appropriations Subcommittee on Health and Human
6 Services, the Office of State Budget and Management, and the Fiscal Research Division. The
7 report shall include the following:

- 8 (1) The number of children participating in the NC Pre-K program.
- 9 (2) The number of children participating in the NC Pre-K program who have
10 never been served in other early education programs, such as child care,
11 public or private preschool, Head Start, Early Head Start, or early
12 intervention programs.
- 13 (3) The expected NC Pre-K expenditures for the programs and the source of the
14 local contributions.
- 15 (4) The results of an annual evaluation of the NC Pre-K program.

16 **SECTION 10.1.(f)** If House Bill 966, 2012 Regular Session of the 2011 General
17 Assembly, becomes law, then Section 10.7(f) of S.L. 2011-145 reads as rewritten:

18 ~~"SECTION 10.7.(f) The prekindergarten program may continue to serve at-risk children
19 identified through the existing "child find" methods in which at-risk children are currently
20 served within the Division of Child Development. The Division of Child Development shall
21 serve at-risk children regardless of income. However, the total number of at-risk children
22 served shall constitute no more than twenty percent (20%) of the four-year-olds served within
23 the prekindergarten program. Any The Division of Child Development and Early Education
24 shall establish income eligibility requirements for the program not to exceed seventy-five
25 percent (75%) of the State median income. Up to twenty percent (20%) of children enrolled
26 may have family incomes in excess of seventy-five percent (75%) of median income if they
27 have other designated risk factors. Furthermore, any age-eligible child who is a child of either
28 of the following shall be eligible for the program: (i) an active duty member of the Armed
29 Forces of the United States, including the North Carolina National Guard, State military forces,
30 or a reserve component of the Armed Forces, who was ordered to active duty by the proper
31 authority within the last 18 months or is expected to be ordered within the next 18 months or
32 (ii) a member of the Armed Forces of the United States, including the North Carolina National
33 Guard, State military forces, or a reserve component of the Armed Forces, who was injured or
34 killed while serving on active duty. Eligibility determinations for prekindergarten participants
35 may continue through local education agencies and local North Carolina Partnership for
36 Children, Inc., partnerships."~~

37 **SECTION 10.1.(g)** If House Bill 966, 2012 Regular Session of the 2011 General
38 Assembly, becomes law, then Section 10.7(h) of S.L. 2011-145 is repealed.

39 **REVISE CHILD CARE SUBSIDY RATES PROVISION**

40 **SECTION 10.2.** Section 10.1 of S.L. 2011-145 is amended by adding the
41 following new subsection to read:

42 ~~"SECTION 10.1.(g1) The Department of Health and Human Services, Division of Child
43 Development and Early Education, shall require all county departments of social services to
44 include on any forms used to determine eligibility for child care subsidy whether the family
45 waiting for subsidy is receiving assistance through the NC Pre-K program or Head Start."~~

46 **CHILD CARE ALLOCATION FORMULA/DIRECTION**

47 **SECTION 10.2A.** Section 10.2(a) of S.L. 2011-145 is amended by adding the
48 following new subdivision to read:

49 **"SECTION 10.2.(a)** The Department of Health and Human Services shall allocate child
50 care subsidy voucher funds to pay the costs of necessary child care for minor children of needy
51 families. The mandatory thirty percent (30%) Smart Start subsidy allocation under
52 G.S. 143B-168.15(g) shall constitute the base amount for each county's child care subsidy
53 allocation. The Department of Health and Human Services shall use the following method
54 when allocating federal and State child care funds, not including the aggregate mandatory thirty
55 percent (30%) Smart Start subsidy allocation:
56
57

- 1 (1) Funds shall be allocated to a county based upon the projected cost of serving
- 2 children under age 11 in families with all parents working who earn less than
- 3 seventy-five percent (75%) of the State median income.
- 4 (2) No county's allocation shall be less than ninety percent (90%) of its State
- 5 fiscal year 2001-2002 initial child care subsidy allocation.
- 6 (3) For the 2012-2013 fiscal year, the Division of Child Development and Early
- 7 Education shall base the formula identified in subdivision (1) of this
- 8 subsection on the same data source used for the 2011-2012 fiscal year."
- 9

10 **EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES**
 11 **ENHANCEMENTS/SALARY SCHEDULE/MATCH REQUIREMENT**
 12 **ADJUSTMENTS**

13 **SECTION 10.3.(a)** Section 10.5(c) of S.L. 2011-145 is repealed.

14 **SECTION 10.3.(b)** Section 10.5 of S.L. 2011-145 is amended by adding the
 15 following new subsection to read:

16 "**SECTION 10.5.(c1)** The North Carolina Partnership for Children, Inc., shall develop and
 17 implement a salary schedule for the Executive Director of the North Carolina Partnership for
 18 Children, Inc., and the directors of local partnerships. The salary schedule shall set the
 19 maximum amount of State funds that may be used for the salary of the Executive Director of
 20 the North Carolina Partnership for Children, Inc., and the directors of the local partnerships. In
 21 establishing a salary schedule, the North Carolina Partnership for Children, Inc., shall base the
 22 schedule on the following criteria:

- 23 (1) The population of the area serviced by a local partnership.
- 24 (2) The amount of State funds administered.
- 25 (3) The amount of total funds administered.
- 26 (4) The professional experience of the individual to be compensated.
- 27 (5) Any other relevant factors pertaining to salary, as determined by the North
 28 Carolina Partnership for Children, Inc.

29 The salary schedule shall be used only to determine the maximum amount of State funds that
 30 may be used for compensation. Nothing in this subsection shall be construed to prohibit a local
 31 partnership from using non-State funds to supplement an individual's salary in excess of the
 32 amount set by the salary schedule established under this subsection."

33 **SECTION 10.3.(c)** Section 10.5(e) of S.L. 2011-145, as amended by Section 21A
 34 of S.L. 2011-391, reads as rewritten:

35 "**SECTION 10.5.(e)** The North Carolina Partnership for Children, Inc., and all local
 36 partnerships shall, in the aggregate, be required to match one hundred percent (100%) of the
 37 total amount budgeted for the program in each fiscal year of the biennium. Of the funds the
 38 North Carolina Partnership for Children, Inc., and the local partnerships are required to match,
 39 contributions of cash shall equal to at least ~~seven percent (7%)~~ ten percent (10%) and in-kind
 40 donated resources equal to no more than three percent (3%) for a total match requirement of ~~ten~~
 41 ~~percent (10%)~~ thirteen percent (13%) for each fiscal year. The North Carolina Partnership for
 42 Children, Inc., may carry forward any amount in excess of the required match for a fiscal year
 43 in order to meet the match requirement of the succeeding fiscal year. Only in-kind
 44 contributions that are quantifiable shall be applied to the in-kind match requirement. Volunteer
 45 services may be treated as an in-kind contribution for the purpose of the match requirement of
 46 this subsection. Volunteer services that qualify as professional services shall be valued at the
 47 fair market value of those services. All other volunteer service hours shall be valued at the
 48 statewide average wage rate as calculated from data compiled by the Employment Security
 49 Commission in the Employment and Wages in North Carolina Annual Report for the most
 50 recent period for which data are available. Expenses, including both those paid by cash and
 51 in-kind contributions, incurred by other participating non-State entities contracting with the
 52 North Carolina Partnership for Children, Inc., or the local partnerships, also may be considered
 53 resources available to meet the required private match. In order to qualify to meet the required
 54 private match, the expenses shall:

- 55 (1) Be verifiable from the contractor's records.
- 56 (2) If in-kind, other than volunteer services, be quantifiable in accordance with
- 57 generally accepted accounting principles for nonprofit organizations.
- 58 (3) Not include expenses funded by State funds.

- 1 (4) Be supplemental to and not supplant preexisting resources for related
2 program activities.
- 3 (5) Be incurred as a direct result of the Early Childhood Initiatives Program and
4 be necessary and reasonable for the proper and efficient accomplishment of
5 the Program's objectives.
- 6 (6) Be otherwise allowable under federal or State law.
- 7 (7) Be required and described in the contractual agreements approved by the
8 North Carolina Partnership for Children, Inc., or the local partnership.
- 9 (8) Be reported to the North Carolina Partnership for Children, Inc., or the local
10 partnership by the contractor in the same manner as reimbursable expenses.

11 Failure to obtain a ~~ten percent (10%)~~ thirteen percent (13%) match by June 30 of each fiscal
12 year shall result in a dollar-for-dollar reduction in the appropriation for the Program for a
13 subsequent fiscal year. The North Carolina Partnership for Children, Inc., shall be responsible
14 for compiling information on the private cash and in-kind contributions into a report that is
15 submitted to the Joint Legislative Commission on Governmental Operations in a format that
16 allows verification by the Department of Revenue. The same match requirements shall apply to
17 any expansion funds appropriated by the General Assembly."

19 MEDICAID THERAPIES LIMIT REVISED

20 **SECTION 10.5.** Section 10.37(a)(2) of S.L. 2011-145 is repealed.

22 MODIFY AND IMPROVE PHARMACY SERVICES

23 **SECTION 10.8.(a)** The Department of Health and Human Services, Division of
24 Medical Assistance, shall lower the fees paid to pharmacies for dispensing prescription drugs to
25 achieve a savings of at least two million six hundred thirty-nine thousand eight hundred one
26 dollars (\$2,639,801) in the 2012-2013 fiscal year and an annualized savings of five million two
27 hundred seventy-nine thousand six hundred one dollars (\$5,279,601) thereafter.

28 **SECTION 10.8.(b)** The Division of Medical Assistance shall implement a tiered
29 payment structure for generic prescriptions dispensed through the Medicaid Program so that the
30 statewide average fee paid to pharmacies is no more than five dollars and sixty cents (\$5.60)
31 per prescription. Each of the four tiered payment amounts for generic prescriptions as set forth
32 in the Medicaid State Plan, effective as of June 1, 2012, shall be reduced by thirteen and
33 eighty-five hundredths percent (13.85%). The pharmacy dispensing fees shall be implemented
34 as follows:

- 35 (1) Three dollars and forty-five cents (\$3.45) shall be paid to pharmacies with
36 generic dispensing rates below seventy percent (70%).
- 37 (2) Three dollars and seventy-nine cents (\$3.79) shall be paid to pharmacies
38 with generic dispensing rates that are at least seventy percent (70%) but
39 lower than seventy-five percent (75%).
- 40 (3) Five dollars and sixty cents (\$5.60) shall be paid to pharmacies with generic
41 dispensing rates that are at least seventy-five percent (75%) but lower than
42 eighty percent (80%).
- 43 (4) Seven dollars and seventy-five cents (\$7.75) shall be paid to pharmacies
44 with generic dispensing rates of eighty percent (80%) or higher.

45 **SECTION 10.8.(c)** The fee to be paid for dispensing brand drugs through the
46 Medicaid Program shall be reduced by one dollar (\$1.00).

47 **SECTION 10.8.(d)** For the 2012-2013 fiscal year, the Department shall achieve a
48 savings of one million three hundred ninety-one thousand nine hundred six dollars (\$1,391,906)
49 through the implementation of a special pharmacy program for hemophilia drugs. The savings
50 shall be achieved through the use of the federal 340B Drug Pricing Program for the dispensing
51 of hemophilia drugs under the Medicaid Program.

52 **SECTION 10.8.(e)** The Department of Health and Human Services shall apply to
53 the Centers for Medicare and Medicaid Services for any necessary approvals to implement the
54 changes required by this section.

56 STUDY ELECTRONIC PRIOR AUTHORIZATION FOR MEDICAID 57 PRESCRIPTIONS

58 **SECTION 10.8A.** The Department of Health and Human Services shall study the
59 implementation of a system for the Medicaid program that would exchange standard electronic

1 prior authorization requests with health care providers for drugs and devices using electronic
2 data interchange standards consistent with those adopted by the National Council of
3 Prescription Drug Programs for pharmacy benefits managers to exchange standard electronic
4 prior authorization requests with health care providers. As part of its study, the Department
5 shall review the experience of other states, including start-up costs and annual savings, to
6 provide an estimate of the potential costs and savings for this State. No later than March 1,
7 2013, the Department shall report its findings to the House Appropriations Subcommittee on
8 Health and Human Services and the Senate Appropriations Committee on Health and Human
9 Services.

10 **PROHIBIT SMART CARD PILOT PROGRAM**

11 **SECTION 10.9.(a)** S.L. 2011-117 is repealed.

12 **SECTION 10.9.(b)** The Department of Health and Human Services shall not
13 establish or operate a smart card pilot program or any other type of smart card program. If the
14 Department is currently operating such a program, the Department shall end the program
15 immediately.
16

17 **STATE AUDITOR AUDIT DIVISION OF MEDICAL ASSISTANCE**

18 **SECTION 10.9A.** The State Auditor shall conduct a performance audit of the North
19 Carolina Medicaid Program and the Division of Medical Assistance operated within the
20 Department of Health and Human Services. The audit shall examine the program's
21 effectiveness, results of the program, and compliance with requirements of the Centers for
22 Medicare and Medicaid Services and the requirements of State law. The State Auditor shall
23 give a preliminary report on the performance audit to the Joint Legislative Commission on
24 Governmental Operations and to the Fiscal Research Division by November 1, 2012, and shall
25 complete the performance audit by February 1, 2013.
26

27 **PED/FRD JOINT STUDY MEDICAID ORGANIZATION**

28 **SECTION 10.9B.(a)** The Program Evaluation Division and the Fiscal Research
29 Division of the General Assembly shall jointly study the feasibility of creating a separate
30 Department of Medicaid and make a joint recommendation on this issue to the 2013 Regular
31 Session of the General Assembly no later than February 15, 2013.

32 **SECTION 10.9B.(b)** The joint study directed by subsection (a) of this section shall
33 include the following:
34

- 35 (1) A review of how other states administer Medicaid programs, including the
36 following aspects:
 - 37 a. State Plan development and policy management.
 - 38 b. Payment of claims.
 - 39 c. Budget forecasting.
 - 40 d. Rate-setting.
 - 41 e. Appeals.
 - 42 f. Involvement in management of care.
- 43 (2) An analysis of benefits and disadvantages of Medicaid becoming a
44 stand-alone State department, including the following considerations:
 - 45 a. Overhead costs to be saved or increased as a result of any proposed
46 changes.
 - 47 b. Identification of any efficiencies to be gained from such
48 reorganization.
 - 49 c. Identification of any costs that would be incurred as a result of this
50 reorganization.
 - 51 d. Whether it is feasible to also move any other divisions or programs
52 within the Department of Health and Human Services (DHHS) into a
53 new Department of Medicaid.
- 54 (3) Whether moving Medicaid into its own department would have any adverse
55 impact on funding streams to and administration of other agencies within
56 DHHS.
- 57 (4) Identification of various Medicaid organizational structures and their costs
58 and savings.
59

REMOVE AUTHORITY FOR MEDICAID PROVIDER RATE AND SERVICE REDUCTION

SECTION 10.9C.(a) Except as otherwise provided in this act to achieve Medicaid pharmacy program savings or in Section 10.48 of S.L. 2011-145, notwithstanding any other provision of law for the 2012-2013 fiscal year, the Department of Health and Human Services shall not reduce Medicaid provider payment rates or Medicaid optional services.

SECTION 10.9C.(b) In achieving the management flexibility reductions set forth in the Report on the Continuation, Expansion, and Capital Budgets, the Department shall not further reduce Medicaid program funds in excess of the reductions authorized in S.L. 2011-145 and this act. To achieve management flexibility reductions, the Department shall make reductions in areas such as administrative costs, Information Technology Services (ITS), and the elimination of vacant positions. To the extent possible, the Department shall not further reduce services throughout the Department of Health and Human Services to achieve the management flexibility reductions.

SECTION 10.9C.(c) In achieving the management flexibility reductions set forth in the Report on the Continuation, Expansion, and Capital Budgets, the Department shall not reduce the funding appropriated in this act for the plan to provide temporary, short-term assistance to adult care homes and the Transitions to Community Living Initiative.

SECTION 10.9C.(d) The requirements of subsection (a) of this section shall not affect (i) a Medicaid provider payment rate reduction or Medicaid optional service reduction made prior to the effective date of this act or (ii) any applications for Medicaid program modifications authorized by S.L. 2011-145 that are in the process of being approved by the Centers for Medicare and Medicaid Services as of the effective date of this act.

OUTPATIENT IMAGING SERVICES

SECTION 10.9D. Prior to March 31, 2013, the Department of Health and Human Services shall not issue any request for proposals for the provision of outpatient imaging services for the Medicaid program.

MEDICAID OPTION/SPECIAL CARE AND MEMORY CARE UNITS

SECTION 10.9E.(a) The Department of Health and Human Services, Division of Medical Assistance, shall develop and submit a home- and community-based services program under Medicaid State Plan 1915(i) authority for individuals typically served in special care and memory care units that meet the criteria of the State/County Special Assistance Program.

SECTION 10.9E.(b) The Division shall implement the program upon approval of the application by the Centers for Medicare and Medicaid Services.

SECTION 10.9E.(c) On or before April 1, 2013, the Division shall provide a report on the status of approval and implementation of the program to the Joint Legislative Commission on Governmental Operations, the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

PERSONAL CARE SERVICES/ADL ELIGIBILITY

SECTION 10.9F.(a) Section 10.38 of S.L. 2011-145 is repealed.

SECTION 10.9F.(b) Section 10.37(a)(1) of S.L. 2011-145, as amended by Section 25 of S.L. 2011-391, reads as rewritten:

"AUTHORIZE THE DIVISION OF MEDICAL ASSISTANCE TO TAKE CERTAIN STEPS TO EFFECTUATE COMPLIANCE WITH BUDGET REDUCTIONS IN THE MEDICAID PROGRAM

"SECTION 10.37.(a) The Department of Health and Human Services, Division of Medical Assistance, may take the following actions, notwithstanding any other provision of this act or other State law or rule to the contrary:

(1) ~~In Home Personal Care Services for Children provision. – In order to enhance in-home aide services to Medicaid recipients, the~~ The Department of Health and Human Services, Division of Medical Assistance, ~~Assistance (DMA), shall:~~

a. ~~No longer provide~~ Provide services under PCS and PCS Plus whenever CMS approves the elimination of the PCS and PCS Plus programs and the implementation of the following two new services:

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1. ~~In-Home Care for Children (IHCC).~~ Services to assist families to meet the ~~in-home~~personal care needs of children, including those individuals under the age of 21 receiving comprehensive and preventive child health services through the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program.
 2. ~~In-Home Care for Adults (IHCA).~~ Services to meet the eating, dressing, bathing, toileting, and mobility needs of individuals 21 years of age or older who, because of a medical condition, disability, or cognitive impairment, demonstrate unmet needs for, at a minimum, (i) three of the five qualifying activities of daily living (ADLs) with limited hands-on assistance; (ii) two ADLs, one of which requires extensive assistance; or (iii) two ADLs, one of which requires assistance at the full dependence level. The five qualifying ADLs are eating, dressing, bathing, toileting, and mobility. ~~IHCA shall serve individuals at the highest level of need for in-home care who are able to remain safely in the home.~~
- b. Establish, in accordance with G.S. 108A-54.2, a Medical Coverage Policy for each of these programs, to ~~include:~~include up
1. ~~For IHCC, up to 60 hours per month in accordance with an assessment conducted by DMA or its designee and a plan of care developed by the service provider and approved by DMA or its designee. Additional hours may be authorized when the services are required to correct or ameliorate defects and physical and mental illnesses and conditions in this age group, as defined in 42 U.S.C. § 1396d(r)(5), in accordance with a plan of care approved by DMA or its designee.~~
 2. ~~For IHCA, up to 80 hours per month in accordance with an assessment conducted by DMA or its designee and a plan of care developed by the service provider and approved by DMA or its designee.~~
- c. Implement the following ~~program~~ limitations and restrictions to apply to ~~both IHCC and IHCA~~the provision of personal care services to children:
1. Additional services to children required under federal EPSDT requirements shall be provided to qualified ~~recipients in the IHCC Program.~~recipients.
 2. Services shall be provided in a manner that supplements, rather than supplants, family roles and responsibilities.
 3. Services shall be authorized in amounts based on assessed need of each recipient, taking into account care and services provided by the family, other public and private agencies, and other informal caregivers who may be available to assist the family. All available resources shall be utilized fully, and services provided by such agencies and individuals shall be disclosed to the DMA assessor.
 4. Services shall be directly related to ~~the hands-on assistance and related tasks to complete each qualifying ADL in accordance with the IHCC or IHCA~~the personal care service assessment and plan of care, as applicable.
 5. ~~Services provided under IHCC and IHCA shall not include household chores not directly related to the qualifying ADLs, nonmedical transportation, financial management, and non-hands-on assistance such as cueing, prompting, guiding, coaching, or babysitting.~~
 6. ~~Essential errands that are critical to maintaining the health and welfare of the recipient may be approved on a case-by-case basis by the DMA assessor when there is no~~

- 1 family member, other individual, program, or service
 2 available to meet this need. Approval, including the amount
 3 of time required to perform this task, shall be documented on
 4 the recipient's assessment form and plan of care.
- 5 d. Utilize the following process for admission evaluation or reevaluation
 6 to the IHCC and IHCA programs: provide personal care services to
 7 children:
- 8 1. The recipient shall be seen by his or her primary or attending
 9 physician, who shall provide written authorization for referral
 10 for the service and written attestation to the medical necessity
 11 for the service.
 - 12 2. All assessments for ~~admission to IHCC and IHCA,~~ the
 13 provision of services, continuation of these services, and
 14 change of status reviews for these services shall be performed
 15 by DMA or its designee. The DMA designee may not be an
 16 owner of a provider business or provider of ~~in-home or~~
 17 personal care services of any type.
 - 18 3. DMA or its designee shall determine and authorize the
 19 amount of service to be provided on a "needs basis," as
 20 determined by its review and findings of each recipient's
 21 degree of functional disability and level of unmet ~~needs for~~
 22 ~~hands-on personal assistance in the five qualifying~~
 23 ~~ADLs needs.~~
- 24 e. Take all appropriate actions to manage the cost, quality, program
 25 compliance, and utilization of personal care services provided under
 26 the IHCC and IHCA programs, including, but not limited to:
- 27 1. ~~Priority independent reassessment of recipients before the~~
 28 ~~anniversary date of their initial admission or reassessment for~~
 29 ~~those recipients likely to qualify for the restructured IHCC~~
 30 ~~and IHCA programs.~~
 - 31 2. Priority independent reassessment of recipients requesting a
 32 change of service provider.
 - 33 3. ~~Targeted reassessments of recipients prior to their anniversary~~
 34 ~~dates when the current provider assessment indicates they~~
 35 ~~may not qualify for the program or for the amount of services~~
 36 ~~they are currently receiving.~~
 - 37 4. Targeted reassessment of recipients receiving services from
 38 providers with a history of program
 39 noncompliance. ~~noncompliance in providing personal care~~
 40 services to children.
 - 41 5. ~~Provider desk and on-site reviews and recoupment of all~~
 42 ~~identified overpayments or improper payments.~~
 - 43 6. ~~Recipient reviews, interviews, and surveys.~~
 - 44 7. The use of mandated electronic transmission of referral
 45 forms, plans of care, and reporting forms.
 - 46 8. The use of mandated electronic transmission of uniform
 47 reporting forms for recipient complaints and critical incidents.
 - 48 9. The use of automated systems to monitor, evaluate, and
 49 profile provider performance against established performance
 50 indicators.
 - 51 10. Establishment of rules that implement the requirements of 42
 52 C.F.R. § 441.16.
- 53 f. Time line for implementation of new IHCC and IHCA programs.
- 54 1. ~~Subject to approvals from CMS, DMA shall make every~~
 55 ~~effort to implement the new IHCC and IHCA programs by~~
 56 ~~January 1, 2013.~~
 - 57 2. ~~DMA shall ensure that individuals who qualify for the IHCC~~
 58 ~~and IHCA programs shall not experience a lapse in service~~
 59 ~~and, if necessary, shall be admitted on the basis of their~~

1 ~~current provider assessment when an independent~~
 2 ~~reassessment has not yet been performed and the current~~
 3 ~~assessment documents that the medical necessity~~
 4 ~~requirements for the IHCC or IHCA program, as applicable,~~
 5 ~~have been met.~~

- 6 3. ~~Prior to the implementation date of the new IHCC and IHCA~~
 7 ~~programs, all recipients in the PCS and PCS Plus programs~~
 8 ~~shall be notified pursuant to 42 C.F.R. § 431.220(b) and~~
 9 ~~discharged, and the Department shall no longer provide~~
 10 ~~services under the PCS and PCS Plus programs, which shall~~
 11 ~~terminate. Recipients who qualify for the new IHCC and~~
 12 ~~IHCA programs shall be admitted and shall be eligible to~~
 13 ~~receive services immediately."~~

14 **SECTION 10.9F.(c)** A Medicaid recipient who meets each of the following criteria
 15 is eligible for personal care services:

- 16 (1) The recipient has a medical condition, disability, or cognitive impairment,
 17 and demonstrates unmet needs for, at a minimum, (i) two activities of daily
 18 living (ADLs), one of which requires extensive assistance; or (ii) two ADLs,
 19 one of which requires assistance at the full dependence level.
 20 (2) The recipient resides either in a private living arrangement or a residential
 21 facility licensed by the State of North Carolina as an adult care home.

22 The five qualifying ADLs are eating, dressing, bathing, toileting, and mobility.
 23 Personal care services shall be available for up to 80 hours per month in accordance with an
 24 assessment conducted under subsection (d) of this section and a plan of care developed by the
 25 service provider and approved by the Department of Health and Human Services, Division of
 26 Medical Assistance (DMA), or its designee. Personal care services shall not include
 27 nonmedical transportation; financial management; non-hands-on assistance such as cueing,
 28 prompting, guiding, coaching, or babysitting; and household chores not directly related to the
 29 qualifying ADLs.

30 **SECTION 10.9F.(d)** All assessments for personal care services, continuation of
 31 service, and change of status reviews shall be performed by an independent assessment entity
 32 (IAE). The IAE shall not be an owner of a provider business or provider of personal care
 33 services of any type.

34 A recipient shall be assessed by the IAE after the recipient's primary or attending
 35 physician provides written authorization for referral for the service and written attestation to the
 36 medical necessity for the service. The IAE shall determine and authorize the amount of service
 37 to be provided as determined by its review and findings of each recipient's degree of functional
 38 disability and level of unmet needs for personal care services in the five qualifying ADLs.

39 **SECTION 10.9F.(e)** The Department of Health and Human Services shall report to
 40 the Joint Legislative Oversight Committee on Health and Human Services by September 1,
 41 2012, on the implementation of this section and on its progress in making independent
 42 assessments of recipients.

43 **SECTION 10.9F.(f)** The Department of Health and Human Services shall apply to
 44 the Centers for Medicare and Medicaid Services by July 15, 2012, for a Medicaid State Plan
 45 Amendment to implement this section.

46 **SECTION 10.9F.(g)** Subsections (c) and (d) of this section become effective
 47 January 1, 2013.

48 **FUNDS FOR INPATIENT PSYCHIATRIC BEDS OR BED DAYS**

49 **SECTION 10.10.** Section 10.8(b) of S.L. 2011-145 reads as rewritten:

50 **"SECTION 10.8.(b)** Of the funds appropriated in this act to the Department of Health and
 51 Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse
 52 Services, the sum of twenty-nine million one hundred twenty-one thousand six hundred
 53 forty-four dollars (\$29,121,644) for the 2011-2012 fiscal year and the sum of twenty-nine
 54 million one hundred twenty-one thousand six hundred forty-four dollars (\$29,121,644) for the
 55 2012-2013 fiscal year shall be allocated for the purchase of local inpatient psychiatric beds or
 56 bed days. In addition, at the discretion of the Secretary of Health and Human Services, existing
 57 funds allocated to LMEs for community-based mental health, developmental disabilities, and
 58 substance abuse services may be used to purchase additional local inpatient psychiatric beds or
 59

1 bed days. These beds or bed days shall be distributed across the State in LME catchment
2 ~~areas~~ areas, including any catchment areas served by managed care organizations, and according
3 to need as determined by the Department. The Department shall enter into contracts with the
4 LMEs and community hospitals for the management of these beds or bed days. The
5 Department shall work to ensure that these contracts are awarded equitably around all regions
6 of the State. Local inpatient psychiatric beds or bed days shall be managed and controlled by
7 the LME, including the determination of which local or State hospital the individual should be
8 admitted to pursuant to an involuntary commitment order. Funds shall not be allocated to
9 LMEs but shall be held in a statewide reserve at the Division of Mental Health, Developmental
10 Disabilities, and Substance Abuse Services to pay for services authorized by the LMEs and
11 billed by the hospitals through the LMEs. LMEs shall remit claims for payment to the Division
12 within 15 working days of receipt of a clean claim from the hospital and shall pay the hospital
13 within 30 working days of receipt of payment from the Division. If the Department determines
14 (i) that an LME is not effectively managing the beds or bed days for which it has responsibility,
15 as evidenced by beds or bed days in the local hospital not being utilized while demand for
16 services at the State psychiatric hospitals has not reduced, or (ii) the LME has failed to comply
17 with the prompt payment provisions of this subsection, the Department may contract with
18 another LME to manage the beds or bed days, or, notwithstanding any other provision of law to
19 the contrary, may pay the hospital directly. The Department shall develop reporting
20 requirements for LMEs regarding the utilization of the beds or bed days. Funds appropriated in
21 this section for the purchase of local inpatient psychiatric beds or bed days shall be used to
22 purchase additional beds or bed days not currently funded by or through LMEs and shall not be
23 used to supplant other funds available or otherwise appropriated for the purchase of psychiatric
24 inpatient services under contract with community hospitals, including beds or bed days being
25 purchased through Hospital Utilization Pilot funds appropriated in S.L. 2007-323. Not later
26 than March 1, 2012, the Department shall report to the House of Representatives
27 Appropriations Subcommittee on Health and Human Services, the Senate Appropriations
28 Committee on Health and Human Services, the Joint Legislative Oversight Committee on
29 Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal
30 Research Division on a uniform system for beds or bed days purchased (i) with local funds, (ii)
31 from existing State appropriations, (iii) under the Hospital Utilization Pilot, and (iv) purchased
32 using funds appropriated under this subsection."
33

34 **FUNDS FOR FAMILY PLANNING SERVICES BY LOCAL HEALTH** 35 **DEPARTMENTS**

36 **SECTION 10.12.** Of the funds appropriated in this act to the Department of Health
37 and Human Services for the 2012-2013 fiscal year, none shall be allocated to renewing,
38 extending, or entering into new contracts for the provision of family planning services and
39 pregnancy prevention activities with providers other than local health departments. Upon the
40 expiration of any contracts in effect during the 2011-2012 fiscal year between the Division of
41 Public Health and private providers of family planning services and pregnancy prevention
42 activities, the Department shall reallocate three hundred forty-three thousand dollars (\$343,000)
43 of these contract funds to local health departments. Local health departments receiving funds
44 under this section shall not contract with private providers for the provision of family planning
45 services or pregnancy prevention activities. These services and activities shall be provided
46 directly by local health department recipients or by other governmental entities contracted by
47 local health department recipients. This section does not apply to contracts administered by the
48 Department pursuant to G.S. 130A-131.15A.
49

50 **DELAY LOCAL RECEIPT OF LARGER PORTION OF FOOD & LODGING FEES**

51 **SECTION 10.15.** Section 31.11A(c) of S.L. 2011-145, as amended by Section 61A
52 of S.L. 2011-391, reads as rewritten:

53 "**SECTION 31.11A.(c)** Subsection (a) of this section becomes effective ~~July 1, 2012.~~July
54 1, 2013."
55

56 **REDUCE FUNDING FOR NONPROFIT ORGANIZATIONS**

57 **SECTION 10.18.(a)** Section 10.18 of S.L. 2011-145 is repealed.

58 **SECTION 10.18.(b)** For fiscal year 2012-2013, the Department of Health and
59 Human Services shall reduce the amount of funds allocated to nonprofit organizations by five

1 million dollars (\$5,000,000) on a recurring basis. The Department shall not, under any
2 circumstances, use any funds, including State funds, federal funds, special revenue funds, or
3 departmental receipts, to supplement the reduced amount of funding to be allocated to nonprofit
4 organizations pursuant to this subsection. In achieving the reductions required by this
5 subsection, the Department (i) shall minimize reductions to funds allocated to nonprofit
6 organizations for the provision of direct services and (ii) shall not reduce funds allocated to
7 nonprofit organizations to pay for direct services to individuals with developmental disabilities.
8

9 **REPORT ON LAPSED SALARY FUNDS**

10 **SECTION 10.20.** Beginning no later than November 1, 2012, the Department of
11 Health and Human Services shall submit quarterly reports to the Joint Legislative Oversight
12 Committee on Health and Human Services, the House Appropriations Subcommittee on Health
13 and Human Services, the Senate Appropriations Committee on Health and Human Services,
14 and the Fiscal Research Division on the use of lapsed salary funds by each Division within the
15 Department. For each Division, the report shall include the following information about the
16 preceding calendar quarter:

- 17 (1) The total amount of lapsed salary funds.
- 18 (2) The number of full-time equivalent positions comprising the lapsed salary
19 funds.
- 20 (3) The Fund Code for each full-time equivalent position included in the number
21 reported pursuant to subdivision (2) of this section.
- 22 (4) The purposes for which the Department expended lapsed salary funds.
23

24 **REVISE DATES/TANF BENEFIT IMPLEMENTATION**

25 **SECTION 10.22.** Section 10.55 of S.L. 2011-145 reads as rewritten:

26 **"SECTION 10.55.(a)** The General Assembly approves the plan titled "North Carolina
27 Temporary Assistance for Needy Families State Plan ~~FY 2010-2012,~~"2012-2015," prepared by
28 the Department of Health and Human Services and presented to the General Assembly. The
29 North Carolina Temporary Assistance for Needy Families State Plan covers the period October
30 1, ~~2010,2012,~~ through September 30, ~~2012,2015.~~ The Department shall submit the State Plan,
31 as revised in accordance with subsection (b) of this section, to the United States Department of
32 Health and Human Services, as amended by this act or any other act of the 2011 General
33 Assembly.

34 **"SECTION 10.55.(b)** The counties approved as Electing Counties in the North Carolina
35 Temporary Assistance for Needy Families State Plan ~~FY 2010-2012,2012-2015,~~ as approved
36 by this section are Beaufort, Caldwell, Catawba, Lenoir, Lincoln, Macon, and Wilson.

37 **"SECTION 10.55.(c)** Counties that submitted the letter of intent to remain as an Electing
38 County or to be redesignated as an Electing County and the accompanying county plan for
39 ~~fiscal year 2011-years 2012 through 2012,2015,~~ pursuant to G.S. 108A-27(e), shall operate
40 under the Electing County budget requirements effective July 1, ~~2009,2012.~~ For programmatic
41 purposes, all counties referred to in this subsection shall remain under their current county
42 designation through September 30, ~~2012,2015.~~

43 **"SECTION 10.55.(d)** For the ~~2011-2012~~2012-2013 fiscal year, Electing Counties shall be
44 held harmless to their Work First Family Assistance allocations for the ~~2010-2011~~2011-2012
45 fiscal year, provided that remaining funds allocated for Work First Family Assistance and
46 Work First Diversion Assistance are sufficient for payments made by the Department on behalf
47 of Standard Counties pursuant to G.S. 108A-27.11(b).

48 **"SECTION 10.55.(e)** In the event that departmental projections of Work First Family
49 Assistance and Work First Diversion Assistance for the ~~2011-2012~~2012-2013 fiscal year
50 indicate that remaining funds are insufficient for Work First Family Assistance and Work First
51 Diversion Assistance payments to be made on behalf of Standard Counties, the Department is
52 authorized to deallocate funds, of those allocated to Electing Counties for Work First Family
53 Assistance in excess of the sums set forth in G.S. 108A-27.11, up to the requisite amount for
54 payments in Standard Counties. Prior to deallocation, the Department shall obtain approval by
55 the Office of State Budget and Management. If the Department adjusts the allocation set forth
56 in subsection (d) of this section, then a report shall be made to the Joint Legislative
57 Commission on Governmental Operations, the House of Representatives Appropriations
58 Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health
59 and Human Services, and the Fiscal Research Division."

TRANSITIONS TO COMMUNITY LIVING INITIATIVE

SECTION 10.23A.(a) The General Assembly finds that the State's long-term care industry plays a vital role in ensuring that citizens are afforded opportunities for safe housing and adequate client-centered supports in order to live as independently as possible in their homes and communities across the State. This role is consistent with citizens of the State having the opportunity to live in the most appropriate, integrated settings of their choice. The General Assembly also is committed to the development of a plan that continues to advance the State's current system into a statewide system of person-centered, affordable services and supports that emphasize an individual's dignity, choice, and independence and provides new opportunities and increased capacity for community housing and community supports.

SECTION 10.23A.(b) Blue Ribbon Commission on Transitions to Community Living. – There is established the Blue Ribbon Commission on Transitions to Community Living (Commission). The Commission shall (i) examine the State's system of community housing and community supports for people with severe mental illness, severe and persistent mental illness, and intellectual and developmental disabilities and (ii) develop a plan that continues to advance the State's current system into a statewide system of person-centered, affordable services and supports that emphasize an individual's dignity, choice, and independence. In the execution of its duties, the Commission shall consider the following:

- (1) Policies that alter the State's current practices with respect to institutionally based services to community-based services delivered as close to an individual's home and family as possible.
- (2) Best practices in both the public and private sectors in managing and administering long-term care to the disabled.
- (3) An array of services and supports for people with severe mental illness and severe and persistent mental illness, such as respite, community-based supported housing and community-based mental health services, to include evidence-based, person-centered recovery supports and crisis services and supported employment.
- (4) For adults with intellectual and other developmental disabilities, expansion of community-based services and supports, housing options, and supported work. Maximize the use of habilitation services that may be available via the Medicaid "I" option for individuals who do not meet the ICF-MR level of need.
- (5) Methods to responsibly manage the growth in long-term care spending, including use of Medicaid waivers.
- (6) Options for repurposing existing resources while considering the diverse economic challenges in communities across the State.
- (7) Opportunities for systemic change and maximization of housing, and service and supports funding streams, including State-County Special Assistance and the State's Medicaid program.
- (8) The appropriate role of adult care homes and other residential settings in the State.
- (9) Other resources that might be leveraged to enhance reform efforts.

SECTION 10.23A.(c) The Commission shall be composed of 32 members as follows:

- (1) Six members of the House of Representatives appointed by the Speaker of the House of Representatives.
- (2) Six members of the Senate appointed by the President Pro Tempore of the Senate.
- (3) Secretary of the Department of Health and Human Services (DHHS) or the Secretary's designee.
- (4) Director of the Housing Finance Agency or the Director's designee.
- (5) Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services of DHHS or the Director's designee.
- (6) Two mental health consumers or their family representatives.
- (7) Two developmental disabilities consumers or their family representatives.
- (8) Two persons in the field of banking or representing a financial institution with housing finance expertise.

- 1 (9) Two representatives of local management entities or managed care
2 organizations.
- 3 (10) A county government representative.
- 4 (11) A North Carolina Association, Long-Term Care Facilities representative.
- 5 (12) A North Carolina Assisted Living Association representative.
- 6 (13) A family care home representative.
- 7 (14) A developmentally disabled adult group home representative.
- 8 (15) A mental health group home representative.
- 9 (16) Two representatives of service providers with proven experience in
10 innovated housing and support services in the State.
- 11 (17) Director of the Division of Medical Assistance of DHHS or the Director's
12 designee.

13 The Secretary of the Department of Health and Human Services shall ensure
14 adequate staff representation and support from the following: Division of Mental Health,
15 Developmental Disabilities and Substance Abuse Services, Division of Aging and Adult
16 Services, Division of Health Services Regulations, Division of Social Services, and other areas
17 as needed.

18 The Commission shall appoint a Subcommittee on Housing composed of 15
19 members and a Subcommittee on Adult Care Homes.

20 The chairs shall jointly appoint members described in subdivisions (6) through (16)
21 of this subsection and shall fill vacancies in those positions. The Commission shall meet at the
22 call of the chairs. Members of the Commission shall receive per diem, subsistence, and travel
23 expenses as provided in G.S. 120-3.1, 138-5, or 138-6, as appropriate. The Commission may
24 contract for consultant services as provided in G.S. 120-32.02. Upon approval of the
25 Legislative Services Commission, the Legislative Services Officer shall assign professional
26 staff to assist the Commission in its work. Clerical staff shall be furnished to the Commission
27 through the offices of the House of Representatives and Senate Directors of Legislative
28 Assistants. The Commission may meet in the Legislative Building or the Legislative Office
29 Building. The Commission may exercise all of the powers provided under G.S. 120-19 through
30 G.S. 120-19.4 while in the discharge of its official duties. The funds needed to support the cost
31 of the Commission's work shall be transferred from the Department of Health and Human
32 Services upon request of the Legislative Services Director.

33 **SECTION 10.23A.(d)** Transitions to Community Living Fund. – There is
34 established the Transitions to Community Living Fund (Fund) to facilitate implementation of
35 the plans required in subsections (e) and (f) of this section. Accordingly, the State Controller
36 shall reserve the sum of thirty-five million three hundred thousand dollars (\$35,300,000) for
37 transfer and appropriation into the Fund as directed by this section.

38 **SECTION 10.23A.(e)** Of the total reserved in subsection (d) of this section for the
39 Fund, the sum of ten million three hundred thousand dollars (\$10,300,000) is appropriated to
40 support the Department of Health and Human Services in its plan for transitioning individuals
41 with severe mental illness and severe and persistent mental illness into community living
42 arrangements, including establishing a rental assistance program. If the State executes an
43 agreement with the U.S. Department of Justice (USDOJ) in response to the USDOJ findings
44 dated July 28, 2011, or implements a plan in response to the USDOJ findings, these funds shall
45 be used to implement the requirements of the first year of the agreement or the plan. In the
46 event such an agreement is reached, a recurring appropriation will be necessary to fully
47 implement it. The Department may issue temporary rules to implement this subsection.

48 **SECTION 10.23A.(f)** Of the total reserved in subsection (d) of this section for the
49 Fund, the sum of twenty-five million dollars (\$25,000,000) is designated for implementation of
50 the State's plan to provide temporary, short-term assistance to adult care homes as they
51 transition into the State's Transitions to Community Living Initiative. The General Assembly
52 recognizes that while transformation of the system is being undertaken, adult care homes
53 provide stable and safe housing and care to many of North Carolina's frail and elderly
54 population, and it is necessary during this time of transition and transformation of the statewide
55 system that the industry remain able to provide such care.

56 Upon certification by the Department of Health and Human Services, in
57 consultation with a local discharge team, that an individual cannot be safely and timely
58 discharged into the community, the Department may pay a monthly stipend to the adult care
59 home for the number of individuals it continues to serve who are no longer eligible to receive

1 Medicaid reimbursable assistance but for whom a community placement has not yet been
2 arranged.

3 The Department of Health and Human Services shall administer these funds but
4 may, as needed, contract with a vendor for administration.

5 **SECTION 10.23A.(g)** The Department shall report its progress in complying with
6 subsection (e) of this section to the House Appropriations Subcommittee on Health and Human
7 Services, the Senate Committee on Health and Human Services, and the Fiscal Research
8 Division no later than January 2, 2013, and submit a final report no later than April 1, 2013.

9 **SECTION 10.23A.(h)** The Commission shall issue an interim report by October 1,
10 2012, and a final plan to the 2013 General Assembly no later than February 1, 2013, at which
11 time the Commission shall expire.

12
13 **TELECOMMUNICATIONS RELAY SERVICE**

14 **SECTION 10.24.(a)** G.S. 62-157(d1) reads as rewritten:

15 "(d1) The Department of Health and Human Services ~~shall~~ may utilize revenues from the
16 wireless surcharge collected under subsection (i) of this section to ~~fund the Regional Resource~~
17 ~~Centers within support~~ the Division of Services for the Deaf and the Hard of Hearing, in
18 accordance with G.S. 143B-216.33, G.S. 143B-216.34, and Chapter 8B of the General
19 Statutes."

20 **SECTION 10.24.(b)** G.S. 62-157(e) reads as rewritten:

21 "(e) Administration of Service. – The Department of Health and Human Services shall
22 administer the statewide telecommunications relay service program, including its
23 establishment, operation, and promotion. The Department may contract out the provision of
24 this service for four-year periods to one or more service providers, using the provisions of
25 G.S. 143-129. The Department shall administer all programs and services, including the
26 Regional Resource Centers within the Division of Services for the Deaf and the Hard of
27 Hearing in accordance with G.S. 143B-216.33, G.S. 143B-216.34, and Chapter 8B of the
28 General Statutes."

29
30 **DHHS BLOCK GRANTS**

31 **SECTION 10.25.(a)** Appropriations from federal block grant funds are made for
32 the fiscal year ending June 30, 2013, according to the following schedule:

33
34 **TEMPORARY ASSISTANCE TO NEEDY FAMILIES**
35 **(TANF) FUNDS**

36
37 Local Program Expenditures

38
39 Division of Social Services

| | | |
|----|--|---------------|
| 40 | | |
| 41 | 01. Work First Family Assistance | \$ 61,671,297 |
| 42 | | |
| 43 | 02. Work First County Block Grants | 83,386,330 |
| 44 | | |
| 45 | 03. Work First Electing Counties | 2,378,213 |
| 46 | | |
| 47 | 04. Adoption Services – Special Children's Adoption Fund | 2,026,877 |
| 48 | | |
| 49 | 05. Child Protective Services – Child Welfare | |
| 50 | Workers for Local DSS | 13,066,507 |
| 51 | | |
| 52 | 06. Child Welfare Collaborative | 754,115 |
| 53 | | |

54 Division of Child Development

| | | |
|----|-----------------------------------|------------|
| 55 | | |
| 56 | 07. Subsidized Child Care Program | 59,645,662 |
| 57 | | |
| 58 | 08. Swap Child Care Subsidy | 6,352,644 |
| 59 | | |

| | | |
|----|--|-----------------------|
| 1 | Division of Public Health | |
| 2 | | |
| 3 | 09. Teen Pregnancy Initiatives | 2,500,000 |
| 4 | | |
| 5 | DHHS Administration | |
| 6 | | |
| 7 | 10. Division of Social Services | 2,482,260 |
| 8 | | |
| 9 | 11. Office of the Secretary | 34,042 |
| 10 | | |
| 11 | Transfers to Other Block Grants | |
| 12 | | |
| 13 | Division of Child Development | |
| 14 | | |
| 15 | 12. Transfer to the Child Care and Development Fund | 71,773,001 |
| 16 | | |
| 17 | 13. Transfer to Social Services Block Grant for Child | |
| 18 | Protective Services – Child Welfare Training in | |
| 19 | Counties | 1,300,000 |
| 20 | | |
| 21 | 14. Transfer to Social Services Block Grant for Child | |
| 22 | Protective Services | 5,040,000 |
| 23 | | |
| 24 | 15. Transfer to Social Services Block Grant for County | |
| 25 | Departments of Social Services for Children's Services | 4,148,001 |
| 26 | | |
| 27 | TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES | |
| 28 | (TANF) FUNDS | \$ 316,558,949 |
| 29 | | |
| 30 | TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) | |
| 31 | EMERGENCY CONTINGENCY FUNDS | |
| 32 | | |
| 33 | Local Program Expenditures | |
| 34 | | |
| 35 | Division of Social Services | |
| 36 | | |
| 37 | 01. Work First County Block Grants | \$ 11,066,985 |
| 38 | | |
| 39 | TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) | |
| 40 | EMERGENCY CONTINGENCY FUNDS | \$ 11,066,985 |
| 41 | | |
| 42 | SOCIAL SERVICES BLOCK GRANT | |
| 43 | | |
| 44 | Local Program Expenditures | |
| 45 | | |
| 46 | Divisions of Social Services and Aging and Adult Services | |
| 47 | | |
| 48 | 01. County Departments of Social Services | \$ 34,977,206 |
| 49 | (Transfer from TANF \$4,148,001) | |
| 50 | | |
| 51 | 02. Child Protective Services (Transfer from TANF) | 5,040,000 |
| 52 | | |
| 53 | 03. State In-Home Services Fund | 2,101,113 |
| 54 | | |
| 55 | 04. Adult Protective Services | 1,346,047 |
| 56 | | |
| 57 | 05. State Adult Day Care Fund | 2,155,301 |
| 58 | | |
| 59 | 06. Child Protective Services/CPS Investigative Services- | |

| | | |
|----|--|-----------|
| 1 | Child Medical Evaluation Program (Carousel Center for | |
| 2 | Abused Children \$134,592) | 744,047 |
| 3 | | |
| 4 | 07. Special Children Adoption Incentive Fund | 500,000 |
| 5 | | |
| 6 | 08. Child Protective Services-Child Welfare Training | |
| 7 | for Counties (Transfer from TANF) | 1,300,000 |
| 8 | | |
| 9 | 09. Home and Community Care Block Grant (HCCBG) | 1,834,077 |
| 10 | | |
| 11 | 10. Maternity Homes | 925,085 |
| 12 | | |
| 13 | 11. Child Advocacy Centers | 375,000 |
| 14 | | |
| 15 | 12. Work First – Boys and Girls Clubs | 2,452,500 |
| 16 | | |
| 17 | 13. Food Banks | 1,000,000 |
| 18 | | |
| 19 | 14. Child Care Subsidy | 2,452,500 |
| 20 | | |
| 21 | 15. Guardianship | 4,356,604 |
| 22 | | |
| 23 | 16. UNC Cares Contract | 247,920 |
| 24 | | |
| 25 | Division of Public Health | |
| 26 | | |
| 27 | 17. HIV/STD Prevention and Community Planning | 145,819 |
| 28 | | |
| 29 | 18. Prevent Blindness | 150,000 |
| 30 | | |
| 31 | Division of Vocational Rehabilitation | |
| 32 | | |
| 33 | 19. Vocational Rehabilitation Services – Easter Seal Society/UCP | |
| 34 | Community Health Program | 188,263 |
| 35 | | |
| 36 | Division of Central Management and Support | |
| 37 | | |
| 38 | 19A. ALS Association Jim "Catfish" Hunter Chapter | 100,000 |
| 39 | | |
| 40 | DHHS Program Expenditures | |
| 41 | | |
| 42 | Division of Services for the Blind | |
| 43 | | |
| 44 | 20. Independent Living Program | 3,633,077 |
| 45 | | |
| 46 | 21. Accessible Electronic Information for Blind and Disabled Persons | 75,000 |
| 47 | | |
| 48 | Division of Health Service Regulation | |
| 49 | | |
| 50 | 22. Adult Care Licensure Program | 411,897 |
| 51 | | |
| 52 | 23. Mental Health Licensure and Certification Program | 205,668 |
| 53 | | |
| 54 | DHHS Administration | |
| 55 | | |
| 56 | 24. Division of Aging and Adult Services | 624,454 |
| 57 | | |
| 58 | 25. Division of Social Services | 604,311 |
| 59 | | |

| | | | |
|----|-----|--|---------------|
| 1 | 26. | Office of the Secretary/Controller's Office | 138,058 |
| 2 | | | |
| 3 | 27. | Division of Child Development | 15,000 |
| 4 | | | |
| 5 | 28. | Division of Mental Health, Developmental Disabilities, and Substance Abuse Services | 29,665 |
| 6 | | | |
| 7 | | | |
| 8 | 29. | Division of Health Service Regulation | 128,562 |
| 9 | | | |
| 10 | | TOTAL SOCIAL SERVICES BLOCK GRANT | \$ 68,257,174 |
| 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) | \$ 14,688,575 |
| 19 | | | |
| 20 | 02. | Crisis Intervention Program (CIP) | 33,255,130 |
| 21 | | | |
| 22 | | Local Administration | |
| 23 | | | |
| 24 | | Division of Social Services | |
| 25 | | | |
| 26 | 03. | County DSS Administration | 4,444,717 |
| 27 | | | |
| 28 | | DHHS Administration | |
| 29 | | | |
| 30 | 04. | Office of the Secretary/DIRM | 219,490 |
| 31 | | | |
| 32 | 05. | Office of the Secretary/Controller's Office | 9,779 |
| 33 | | | |
| 34 | | Transfers to Other State Agencies | |
| 35 | | | |
| 36 | | Department of Commerce | |
| 37 | | | |
| 38 | 06. | Weatherization Program | 8,464,517 |
| 39 | | | |
| 40 | 07. | Heating Air Repair and Replacement Program (HARRP) | 4,073,690 |
| 41 | | | |
| 42 | | | |
| 43 | 08. | Local Residential Energy Efficiency Service Providers – Weatherization | 19,825 |
| 44 | | | |
| 45 | | | |
| 46 | 09. | Local Residential Energy Efficiency Service Providers – HARRP | 180,041 |
| 47 | | | |
| 48 | | | |
| 49 | 10. | Department of Commerce Administration – Weatherization | 19,825 |
| 50 | | | |
| 51 | | | |
| 52 | 11. | Department of Commerce Administration – HARRP | 180,041 |
| 53 | | | |
| 54 | | | |
| 55 | | Department of Administration | |
| 56 | | | |
| 57 | 12. | N.C. Commission on Indian Affairs | 87,736 |
| 58 | | | |
| 59 | | TOTAL LOW-INCOME HOME ENERGY ASSISTANCE | |

| | | |
|----|---|----------------|
| 1 | BLOCK GRANT | \$ 65,643,366 |
| 2 | | |
| 3 | CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT | |
| 4 | | |
| 5 | Local Program Expenditures | |
| 6 | | |
| 7 | Division of Child Development | |
| 8 | | |
| 9 | 01. Child Care Services | |
| 10 | (Smart Start \$10,000,000) | \$ 158,179,897 |
| 11 | | |
| 12 | 02. Electronic Tracking System | 3,000,000 |
| 13 | | |
| 14 | 03. Transfer from TANF Block Grant | |
| 15 | for Child Care Subsidies | 71,773,001 |
| 16 | | |
| 17 | 04. Quality and Availability Initiatives | 23,000,000 |
| 18 | (TEACH Program \$3,800,000) | |
| 19 | | |
| 20 | DHHS Administration | |
| 21 | | |
| 22 | Division of Child Development | |
| 23 | | |
| 24 | 05. DCDEE Administrative Expenses | 6,000,000 |
| 25 | | |
| 26 | 06. Local Subsidized Child Care Services Support | |
| 27 | (4% Administrative Allowance) | 15,898,602 |
| 28 | | |
| 29 | Division of Central Administration | |
| 30 | | |
| 31 | 07. DHHS Central Administration – DIRM | |
| 32 | Technical Services | 775,000 |
| 33 | | |
| 34 | TOTAL CHILD CARE AND DEVELOPMENT FUND | |
| 35 | BLOCK GRANT | \$ 278,626,500 |
| 36 | | |
| 37 | MENTAL HEALTH SERVICES BLOCK GRANT | |
| 38 | | |
| 39 | Local Program Expenditures | |
| 40 | | |
| 41 | 01. Mental Health Services – Adult | \$ 8,870,595 |
| 42 | | |
| 43 | 02. Mental Health Services – Child | 5,121,991 |
| 44 | | |
| 45 | 03. Administration | 100,000 |
| 46 | | |
| 47 | TOTAL MENTAL HEALTH SERVICES BLOCK GRANT | \$ 14,092,586 |
| 48 | | |
| 49 | SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT | |
| 50 | | |
| 51 | Local Program Expenditures | |
| 52 | | |
| 53 | Division of Mental Health, Developmental Disabilities, and Substance Abuse Services | |
| 54 | | |
| 55 | 01. Substance Abuse Services – Adult | \$ 15,328,802 |
| 56 | | |
| 57 | 02. Substance Abuse Treatment Alternative for Women | 6,050,300 |
| 58 | | |
| 59 | 03. Substance Abuse – HIV and IV Drug | 3,919,723 |

| | | | |
|----|-----|--|---------------|
| 1 | | | |
| 2 | 04. | Substance Abuse Prevention – Child | 7,186,857 |
| 3 | | | |
| 4 | 05. | Substance Abuse Services – Child | 4,940,500 |
| 5 | | | |
| 6 | 06. | Administration | 454,000 |
| 7 | | | |
| 8 | | Division of Public Health | |
| 9 | | | |
| 10 | 07. | Risk Reduction Projects | 575,654 |
| 11 | | | |
| 12 | 08. | Aid-to-Counties | 190,295 |
| 13 | | | |
| 14 | | TOTAL SUBSTANCE ABUSE PREVENTION | |
| 15 | | AND TREATMENT BLOCK GRANT | \$ 38,646,131 |
| 16 | | | |
| 17 | | MATERNAL AND CHILD HEALTH BLOCK GRANT | |
| 18 | | | |
| 19 | | Local Program Expenditures | |
| 20 | | | |
| 21 | | Division of Public Health | |
| 22 | | | |
| 23 | 01. | Children's Health Services | |
| 24 | | (Nurse-Family Partnership \$375,000) | \$ 8,487,547 |
| 25 | | | |
| 26 | 02. | Women's Health | |
| 27 | | (March of Dimes \$350,000; Teen Pregnancy | |
| 28 | | Prevention Initiatives \$650,000; Perinatal | |
| 29 | | Quality Collaborative \$250,000; 17P Project \$47,000) | 8,404,244 |
| 30 | | | |
| 31 | 03. | Oral Health | 42,268 |
| 32 | | | |
| 33 | | DHHS Program Expenditures | |
| 34 | | | |
| 35 | | Division of Public Health | |
| 36 | | | |
| 37 | 04. | Children's Health Services | 1,250,000 |
| 38 | | | |
| 39 | 05. | Women's Health | 136,628 |
| 40 | | | |
| 41 | 06. | State Center for Health Statistics | 164,318 |
| 42 | | | |
| 43 | 07. | Quality Improvement in Public Health | 2,774 |
| 44 | | | |
| 45 | 08. | Health Promotion | 89,374 |
| 46 | | | |
| 47 | | DHHS Administration | |
| 48 | | | |
| 49 | | Division of Public Health | |
| 50 | | | |
| 51 | 09. | Division of Public Health Administration | 600,000 |
| 52 | | | |
| 53 | | TOTAL MATERNAL AND CHILD | |
| 54 | | HEALTH BLOCK GRANT | \$ 19,259,071 |
| 55 | | | |
| 56 | | PREVENTIVE HEALTH SERVICES BLOCK GRANT | |
| 57 | | | |
| 58 | | Local Program Expenditures | |
| 59 | | | |

| | | |
|----|---|------------|
| 1 | Division of Public Health | |
| 2 | | |
| 3 | 01. Services to Rape Victims | 180,470 |
| 4 | | |
| 5 | 02. HIV/STD Prevention and Community Planning | |
| 6 | (Transfer from Social Services Block Grant) | 145,819 |
| 7 | | |
| 8 | DHHS Program Expenditures | |
| 9 | | |
| 10 | Division of Public Health | |
| 11 | | |
| 12 | 03. State Center for Health Statistics | 160,000 |
| 13 | | |
| 14 | TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT | \$ 486,289 |

COMMUNITY SERVICES BLOCK GRANT

| | | |
|----|---------------------------------------|---------------|
| 15 | | |
| 16 | COMMUNITY SERVICES BLOCK GRANT | |
| 17 | | |
| 18 | Local Program Expenditures | |
| 19 | | |
| 20 | Office of Economic Opportunity | |
| 21 | | |
| 22 | 01. Community Action Agencies | \$ 18,075,488 |
| 23 | | |
| 24 | 02. Limited Purpose Agencies | 1,004,194 |
| 25 | | |
| 26 | DHHS Administration | |
| 27 | | |
| 28 | 03. Office of Economic Opportunity | 1,004,194 |
| 29 | | |
| 30 | TOTAL COMMUNITY SERVICES BLOCK GRANT | \$ 20,083,876 |

GENERAL PROVISIONS

SECTION 10.25.(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 10.25.(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.

1 Notwithstanding the provisions of this subsection, for the 2012-2013 fiscal year,
2 increases in the federal fund availability for the Temporary Assistance to Needy Families
3 (TANF) Block Grant shall be used for the North Carolina Child Care Subsidy program to pay
4 for child care in four- or five-star rated facilities for four-year-old children.

5 Prior to allocating the change in federal fund availability, the proposed allocation
6 must be approved by the Office of State Budget and Management. If the Department adjusts the
7 allocation of any Block Grant due to changes in federal fund availability, then a report shall be
8 made to the Joint Legislative Commission on Governmental Operations, the House of
9 Representatives Appropriations Subcommittee on Health and Human Services, the Senate
10 Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

11 **SECTION 10.25.(d)** Appropriations from federal Block Grant funds are made for
12 the fiscal year ending June 30, 2013, according to the schedule enacted for State fiscal year
13 2012-2013 or until a new schedule is enacted by the General Assembly.

14 **SECTION 10.25.(e)** All changes to the budgeted allocations to the Block Grants or
15 contingency funds and other grants related to existing Block Grants administered by the
16 Department of Health and Human Services that are not specifically addressed in this section
17 shall be approved by the Office of State Budget and Management, and the Office of State
18 Budget and Management shall consult with the Joint Legislative Commission on Governmental
19 Operations for review prior to implementing the changes. The report shall include an itemized
20 listing of affected programs, including associated changes in budgeted allocations. All changes
21 to the budgeted allocations to the Block Grants shall be reported immediately to the House of
22 Representatives Appropriations Subcommittee on Health and Human Services, the Senate
23 Appropriations Committee on Health and Human Services, and the Fiscal Research Division.
24 This subsection does not apply to Block Grant changes caused by legislative salary increases
25 and benefit adjustments.

26 **SECTION 10.25.(f)** If the Preventive Health Services Block Grant is funded at the
27 federal level and the State receives a block grant for Preventive Health Services, the 2011-2012
28 allocation plan shall remain in effect for the 2012-2013 fiscal year.

30 **TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) FUNDS**

31 **SECTION 10.25.(g)** The sum of eighty-three million three hundred eighty-six
32 thousand three hundred thirty dollars (\$83,386,330) appropriated in this section in TANF funds
33 to the Department of Health and Human Services, Division of Social Services, for the
34 2012-2013 fiscal year shall be used for Work First County Block Grants. The Division shall
35 certify these funds in the appropriate State-level services based on prior year actual
36 expenditures. The Division has the authority to realign the authorized budget for these funds
37 among the State-level services based on current year actual expenditures.

38 **SECTION 10.25.(h)** The sum of two million four hundred eighty-two thousand
39 two hundred sixty dollars (\$2,482,260) appropriated in this section in TANF funds to the
40 Department of Health and Human Services, Division of Social Services, for the 2012-2013
41 fiscal year shall be used to support administration of TANF-funded programs.

42 **SECTION 10.25.(i)** The sum of thirteen million sixty-six thousand five hundred
43 seven dollars (\$13,066,507) appropriated in this section to the Department of Health and
44 Human Services, Division of Social Services, in TANF funds for the 2012-2013 fiscal year for
45 child welfare improvements shall be allocated to the county departments of social services for
46 hiring or contracting staff to investigate and provide services in Child Protective Services
47 cases; to provide foster care and support services; to recruit, train, license, and support
48 prospective foster and adoptive families; and to provide interstate and post-adoption services
49 for eligible families.

50 Counties shall maintain their level of expenditures in local funds for Child
51 Protective Services' workers. Of the block grant funds appropriated for Child Protective
52 Services' workers, the total expenditures from State and local funds for the 2012-2013 fiscal
53 year shall not be less than the total expended from State and local funds for the 2011-2012
54 fiscal year.

55 **SECTION 10.25.(j)** The sum of two million twenty-six thousand eight hundred
56 seventy-seven dollars (\$2,026,877) appropriated in this section in TANF funds to the
57 Department of Health and Human Services, Special Children Adoption Fund, for the
58 2012-2013 fiscal year shall be used in accordance with G.S. 108A-50.2, as enacted in Section
59 10.48 of S.L. 2009-451. The Division of Social Services, in consultation with the North

1 Carolina Association of County Directors of Social Services and representatives of licensed
2 private adoption agencies, shall develop guidelines for the awarding of funds to licensed public
3 and private adoption agencies upon the adoption of children described in G.S. 108A-50 and in
4 foster care. Payments received from the Special Children Adoption Fund by participating
5 agencies shall be used exclusively to enhance the adoption services program. No local match
6 shall be required as a condition for receipt of these funds.

7 **SECTION 10.25.(k)** The sum of seven hundred fifty-four thousand one hundred
8 fifteen dollars (\$754,115) appropriated in this section to the Department of Health and Human
9 Services in TANF funds for the 2012-2013 fiscal year shall be used to continue support for the
10 Child Welfare Collaborative.

11 **SOCIAL SERVICES BLOCK GRANT**

12 **SECTION 10.25.(l)** The sum of thirty-five million two hundred eleven thousand
13 seven hundred ninety-eight dollars (\$35,211,798) appropriated in this section in the Social
14 Services Block Grant to the Department of Health and Human Services, Division of Social
15 Services, for the 2012-2013 fiscal year shall be used for County Block Grants. The Division
16 shall certify these funds in the appropriate State-level services based on prior year actual
17 expenditures. The Division has the authority to realign the authorized budget for these funds
18 among the State-level services based on current year actual expenditures.

19 **SECTION 10.25.(m)** The sum of one million three hundred thousand dollars
20 (\$1,300,000) appropriated in this section in the Social Services Block Grant to the Department
21 of Health and Human Services, Division of Social Services, for the 2012-2013 fiscal year shall
22 be used to support various child welfare training projects as follows:

- 23 (1) Provide a regional training center in southeastern North Carolina.
- 24 (2) Provide training for residential child caring facilities.
- 25 (3) Provide for various other child welfare training initiatives.

26 **SECTION 10.25.(n)** The Department of Health and Human Services is authorized,
27 subject to the approval of the Office of State Budget and Management, to transfer Social
28 Services Block Grant funding allocated for departmental administration between divisions that
29 have received administrative allocations from the Social Services Block Grant.

30 **SECTION 10.25.(o)** Social Services Block Grant funds appropriated for the
31 Special Children's Adoption Incentive Fund will require a fifty percent (50%) local match.

32 **SECTION 10.25.(p)** The sum of five million forty thousand dollars (\$5,040,000)
33 appropriated in this section in the Social Services Block Grant for the 2012-2013 fiscal year
34 shall be allocated to the Department of Health and Human Services, Division of Social
35 Services. The Division shall allocate these funds to local departments of social services to
36 replace the loss of Child Protective Services State funds that are currently used by county
37 government to pay for Child Protective Services staff at the local level. These funds shall be
38 used to maintain the number of Child Protective Services workers throughout the State. These
39 Social Services Block Grant funds shall be used to pay for salaries and related expenses only
40 and are exempt from 10A NCAC 71R .0201(3) requiring a local match of twenty-five percent
41 (25%).

42 **SECTION 10.25.(q)** The sum of two million four hundred fifty-two thousand five
43 hundred dollars (\$2,452,500) appropriated in this section to the Department of Health and
44 Human Services, Division of Social Services, in the Social Services Block Grant for Boys and
45 Girls Clubs for the 2012-2013 fiscal year shall be used to make grants for approved programs.
46 The Department of Health and Human Services, in accordance with federal regulations for the
47 use of Social Services Block Grant funds, shall administer a grant program to award funds to
48 the Boys and Girls Clubs across the State in order to implement programs that improve the
49 motivation, performance, and self-esteem of youths and to implement other initiatives that
50 would be expected to reduce gang participation, school dropout, and teen pregnancy rates. The
51 Department shall facilitate collaboration between the Boys and Girls Clubs and Support Our
52 Students, Communities in Schools, and similar programs and encourage them to submit joint
53 applications for the funds if appropriate. These funds are exempt from the provisions of 10A
54 NCAC 71R .0201(3).

55 **SECTION 10.25.(r)** The sum of nine hundred twenty-five thousand eighty-five
56 dollars (\$925,085) appropriated in this section in the Social Services Block Grant for the
57 2012-2013 fiscal year to the Department of Health and Human Services, Division of Social
58

1 Services, shall be used for maternity homes. These funds are exempt from the provisions of
2 10A NCAC 71R .0201(3).

3 **SECTION 10.25.(s)** The sum of one hundred fifty thousand dollars (\$150,000)
4 appropriated in this section in the Social Services Block Grant for the 2012-2013 fiscal year to
5 the Department of Health and Human Services, Division of Public Health, shall be allocated to
6 Prevent Blindness North Carolina to be used for direct service programs. These funds are
7 exempt from the provisions of 10A NCAC 71R .0201(3).

8 **SECTION 10.25.(s1)** The sum of one hundred thousand dollars (\$100,000)
9 appropriated in this section in the Social Services Block Grant for the 2012-2013 fiscal year to
10 the Department of Health and Human Services, Division of Central Management and Support,
11 shall be allocated to the ALS Association, Jim "Catfish" Hunter Chapter, to be used to provide
12 patient care and community services to persons with ALS and their families. These funds are
13 exempt from the provisions of 10A NCAC 71R .0201(3).

14 **SECTION 10.25.(t)** The sum of seventy-five thousand dollars (\$75,000)
15 appropriated in this section in the Social Services Block Grant for the 2012-2013 fiscal year to
16 the Department of Health and Human Services, Division of Services for the Blind, shall be
17 used to provide accessible electronic information for blind and disabled persons. These funds
18 are exempt from the provisions of 10A NCAC 71R .0201(3).

19 **SECTION 10.25.(u)** The sum of three hundred seventy-five thousand dollars
20 (\$375,000) appropriated in this section in the Social Services Block Grant for the 2012-2013
21 fiscal year to the Department of Health and Human Services, Division of Social Services, shall
22 be used to continue support for the Child Advocacy Centers and are exempt from the
23 provisions of 10A NCAC 71R .0201(3).

24 **SECTION 10.25.(v)** Social Services Block Grant funds allocated for the
25 2012-2013 fiscal year for child medical evaluations and the Carousel Center for Abused
26 Children are exempt from the provisions of 10A NCAC 71R .0201(3).

27 **SECTION 10.25.(w)** The sum of one million dollars (\$1,000,000) appropriated in
28 this section in the Social Services Block Grant for the 2012-2013 fiscal year to the Department
29 of Health and Human Services, Division of Social Services, shall be allocated to North
30 Carolina Food Bank agencies to be used to purchase and distribute food staples for emergency
31 food assistance. These funds are exempt from the provisions of 10A NCAC 71R .0201(3).

32 **SECTION 10.25.(w1)** The sum of four million three hundred fifty-six thousand six
33 hundred four dollars (\$4,356,604) appropriated in this section in the Social Services Block
34 Grant for the 2012-2013 fiscal year to the Department of Health and Human Services,
35 Divisions of Social Services and Aging and Adult Services, shall be used for guardianship
36 services pursuant to Article 2 of Chapter 35A of the General Statutes. The Department may
37 expend funds appropriated in this section to support existing State and local level corporate
38 guardianship contracts entered into during the 2012-2013 fiscal year.

40 **LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT**

41 **SECTION 10.25.(x)** Additional emergency contingency funds received may be
42 allocated for Energy Assistance Payments or Crisis Intervention Payments without prior
43 consultation with the Joint Legislative Commission on Governmental Operations. Additional
44 funds received shall be reported to the Joint Legislative Commission on Governmental
45 Operations and the Fiscal Research Division upon notification of the award. The Department of
46 Health and Human Services shall not allocate funds for any activities, including increasing
47 administration, other than assistance payments, without prior consultation with the Joint
48 Legislative Commission on Governmental Operations.

49 **SECTION 10.25.(y)** The sum of fourteen million six hundred eighty-eight
50 thousand five hundred seventy-five dollars (\$14,688,575) appropriated in this section in the
51 Low-Income Home Energy Assistance Block Grant for the 2012-2013 fiscal year to the
52 Department of Health and Human Services, Division of Social Services, shall be used for
53 energy assistance payments for the households of (i) elderly persons age 60 and above with
54 income up to one hundred thirty percent (130%) of the federal poverty level and (ii) disabled
55 persons eligible for services funded through the Division of Aging and Adult Services. County
56 departments of social services shall submit to the Division of Social Services an outreach plan
57 for targeting households with 60-year-old household members no later than August 1 of each
58 year.
59

CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT

SECTION 10.25.(z) Payment for subsidized child care services provided with federal TANF funds shall comply with all regulations and policies issued by the Division of Child Development for the subsidized child care program.

SECTION 10.25.(aa) If funds appropriated through the Child Care and Development Fund Block Grant for any program cannot be obligated or spent in that program within the obligation or liquidation periods allowed by the federal grants, the Department may move funds to child care subsidies, unless otherwise prohibited by federal requirements of the grant, in order to use the federal funds fully.

MATERNAL AND CHILD HEALTH BLOCK GRANT

SECTION 10.25.(bb) If federal funds are received under the Maternal and Child Health Block Grant for abstinence education, pursuant to section 912 of Public Law 104-193 (42 U.S.C. § 710), for the 2012-2013 fiscal year, then those funds shall be transferred to the State Board of Education to be administered by the Department of Public Instruction. The Department of Public Instruction shall use the funds to establish an abstinence until marriage education program and shall delegate to one or more persons the responsibility of implementing the program and G.S. 115C-81(e1)(4) and (4a). The Department of Public Instruction shall carefully and strictly follow federal guidelines in implementing and administering the abstinence education grant funds.

SECTION 10.25.(cc) The Department of Health and Human Services shall ensure that there will be follow-up testing in the Newborn Screening Program.

PART XI. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**B.R.I.D.G.E. YOUTHFUL OFFENDERS/PRIORITY AND REPORTING**

SECTION 11.1.(a) The Division of Adult Correction of the Department of Public Safety shall give priority to the B.R.I.D.G.E. Youthful Offenders Program operated in cooperation with the North Carolina Forest Service when assigning youthful offenders from the Western Youth Institution to work programs.

SECTION 11.1.(b) The North Carolina Forest Service shall submit an annual report on the B.R.I.D.G.E. Youthful Offenders Program no later than October 1 of each year beginning October 1, 2012, to the Fiscal Research Division, the Chairs of the House Appropriations Subcommittee on Natural and Economic Resources and the Senate Appropriations Committee on Natural and Economic Resources, the Chairs of the House Appropriations Subcommittee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety, the Joint Legislative Commission on Governmental Operations, and the Joint Legislative Oversight Committee on Justice and Public Safety. The report shall include the following information for the prior fiscal year:

- (1) The number of youthful offenders within the custody of the Division of Adult Correction eligible for B.R.I.D.G.E.
- (2) The number of youthful offenders participating in B.R.I.D.G.E.
- (3) The average daily participation in B.R.I.D.G.E.
- (4) The average duration of participation in B.R.I.D.G.E.
- (5) Summary of activities of B.R.I.D.G.E. participants.

FOREST FIRES/ANNUAL REPORT

SECTION 11.2. Article 75 of Chapter 106 of the General Statutes is amended by adding a new section to read:

"§ 106-911. Annual report on wildfires.

No later than October 1 of each year, beginning October 1, 2012, the Commissioner shall submit a written report on wildfires in the State to the chairs of the House Appropriations Subcommittee on Natural and Economic Resources and the Senate Appropriations Committee on Natural and Economic Resources, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division of the General Assembly. The report shall include the following information for all major or project wildfires during the prior fiscal year:

- (1) The date, location, and impacts (property damage and any casualties) from the wildfire.

- (2) The following data for firefighters and related support personnel involved in fighting the wildfire:
 - a. Total overtime hours worked.
 - b. Total compensation paid for overtime.
 - c. The portion of compensation paid that was reimbursed to the State.
- (3) The fiscal impact of the wildfire, including total costs, reimbursable costs, and costs incurred by the State."

CLARIFY REQUIREMENTS TO RECEIVE NC AGRICULTURE COST SHARE PROGRAM FUNDS OR AGRICULTURE WATER RESOURCES ASSISTANCE

SECTION 11.2A.(a) G.S. 106-850(b) reads as rewritten:

"(b) The program shall be subject to the following requirements and limitations:

- ...
 - (10) To be eligible for cost share funds under this program, each applicant must establish that he or she is engaged in farming by providing any of the following to the Soil and Water Conservation Commission with his or her application a copy of the applicant's federal tax Schedule F (Form 1040) for the most recent tax year showing the applicant's profit or loss from farming-application:
 - a. A copy of the farm owner's or operator's federal tax Schedule F (Form 1040) or an equivalent form for the most recent tax year showing the owner's or operator's profit or loss from farming.
 - b. A copy of the farm sales tax exemption certificate issued to the farm owner or operator by the Department of Revenue.
 - c. For forestland actively engaged in the commercial growing of trees under a sound management program as defined in G.S. 105-277.2(6), a copy of the sound forest management plan described in G.S. 105-277.3(g).
 - (11) In extraordinary circumstances, the Commission may permit an applicant to establish that he or she is engaged in farming with an alternate form of documentation if the farm has a conservation plan that meets the statutory purposes of the program."

SECTION 11.2A.(b) G.S. 139-60 reads as rewritten:

"§ 139-60. Agricultural Water Resources Assistance Program.

...

(c1) To be eligible for assistance under this program, each applicant must establish that he or she is engaged in farming by providing to the Soil and Water Conservation Commission with his or her application a copy of the applicant's federal tax Schedule F (Form 1040) for the most recent tax year showing the applicant's profit or loss from farming-application:

- (1) A copy of the farm owner's or operator's federal tax Schedule F (Form 1040) or an equivalent form for the most recent tax year showing the owner's or operator's profit or loss from farming.
- (2) A copy of the farm sales tax exemption certificate issued to the farm owner or operator by the Department of Revenue.
- (3) For forestland actively engaged in the commercial growing of trees under a sound management program as defined in G.S. 105-277.2(6), a copy of the sound forest management plan described in G.S. 105-277.3(g).

(c2) In extraordinary circumstances, the Commission may permit an applicant to establish that he or she is engaged in farming with an alternate form of documentation if the farm has a conservation plan that meets the statutory purposes of the program.

...."

PART XII. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER INFRASTRUCTURE FUND CLOSING FEE CONFORMING CHANGES

SECTION 12.01. G.S. 159G-24 reads as rewritten:

"§ 159G-24. Fee imposed on a loan or grant from ~~Wastewater Reserve or Drinking Water Reserve.~~ Water Infrastructure Fund.

1 (a) Amount. – A loan awarded from the ~~Wastewater Reserve or the Drinking Water~~
2 ~~Reserve Water Infrastructure Fund~~ is subject to a fee of two and one-half percent (~~2 ½%~~)(2%)
3 of the loan. A grant awarded from the ~~Wastewater Reserve or the Drinking Water Reserve~~
4 ~~Water Infrastructure Fund~~ is subject to a fee of one and one-half percent (1 ½%) of the grant.
5 The fee is payable when a loan or grant is awarded.

6 (b) Departmental Receipt. – The fee on a loan from the ~~Wastewater Reserve or the~~
7 ~~Drinking Water Reserve Water Infrastructure Fund~~ is a departmental receipt and must be
8 applied to the Department's and the Local Government Commission's costs in administering
9 loans from these Reserves. The Department and the Local Government Commission must
10 determine how to allocate the fee receipts between their agencies. The fee on a grant from the
11 ~~Wastewater Reserve or the Drinking Water Reserve Water Infrastructure Fund~~ is a
12 departmental receipt of the Department and must be applied to the Department's costs in
13 administering grants from these Reserves."
14

15 DENR POSITIONS TO STAFF FOSSIL FUEL OVERSIGHT BODY

16 **SECTION 12.1.** Should the recommended legislation contained in the report of the
17 Legislative Research Commission's Committee on Energy Policy Issues and filed as Senate Bill
18 820/House Bill 1054 become law and require the Department of Environment and Natural
19 Resources to provide staff to an oil and gas board (or substantially similar fossil fuel oversight
20 body), then the Department may fund the staff positions using savings from reclassifying and
21 consolidating salaries, benefits, and associated operating costs from vacant positions and shall
22 fill these reclassified and consolidated positions in a timely manner in order to provide support
23 for implementation of the recommendations.
24

25 DENR TO CENTRALIZE OVERSIGHT OF ITS REGIONAL OFFICES

26 **SECTION 12.2.(a)** The Department of Environment and Natural Resources shall
27 centralize and expand its oversight of the Department's regional offices by taking the following
28 actions:

- 29 (1) The Department shall create a mission statement for the regional offices.
- 30 (2) In order to gather comparative data across the regional offices measuring
31 their performance in carrying out their mission, the Department shall expand
32 its existing performance measures pertinent to customer service delivery and
33 process consistency. The expanded performance measures shall include
34 timelines and milestones.
- 35 (3) The Department shall implement a new customer survey during the
36 2012-2013 fiscal year and use the findings of the survey to craft future goals
37 for addressing customer service concerns. In order to consistently track
38 customer service data, the survey shall be repeated every other year.
- 39 (4) The Department shall conduct a review of its regional offices and divisions
40 to identify best practices for ensuring consistency across the Department and
41 create a plan for implementing those best practices across regional offices
42 and divisions.

43 **SECTION 12.2.(b)** The Department shall report no later than February 1, 2013, to
44 the House Appropriations Subcommittee on Natural and Economic Resources, the Senate
45 Appropriations Committee on Natural and Economic Resources, and the Fiscal Research
46 Division regarding (i) its progress, findings, and recommendations regarding the requirements
47 of this section and (ii) its progress in establishing and implementing findings and
48 recommendations regarding its operations from the public listening sessions conducted by the
49 Department in 2011.
50

51 DRINKING WATER STATE REVOLVING FUND

52 **SECTION 12.3.** Notwithstanding G.S. 159G-22, the Department of Environment
53 and Natural Resources may transfer State funds from the Drinking Water Reserve to the
54 Drinking Water State Revolving Fund for the 2012-2013 fiscal year. The funds shall be used to
55 match maximum available federal grant moneys authorized by section 1453 of the federal Safe
56 Drinking Water Act of 1996, 42 U.S.C. § 300j-12, as amended.
57

58 TRANSFER GEODETIC SURVEY SECTION FROM DENR TO THE DIVISION OF 59 EMERGENCY MANAGEMENT OF THE DEPARTMENT OF PUBLIC SAFETY

1 **SECTION 12.4.(a)** All functions, powers, duties, and obligations previously vested
2 in the Geodetic Survey Section of the Division of Land Resources of the Department of
3 Environment and Natural Resources are transferred to and vested in the Division of Emergency
4 Management of the Department of Public Safety by a Type I transfer, as defined in
5 G.S. 143A-6.

6 **SECTION 12.4.(b)** G.S. 102-1.1 reads as rewritten:

7 **"§ 102-1.1. Name and description in relation to 1983 North American Datum.**

8 From and after the date and time the North Carolina Geodetic Survey Section in the
9 ~~Division of Land Resources of the Department of Environment and Natural Resources~~ Division
10 of Emergency Management of the Department of Public Safety receives from the National
11 Geodetic Survey, official notice of a complete, published definition of the North American
12 Datum of 1983 including the State plane coordinate constants applicable to North Carolina, the
13 official survey base for North Carolina shall be a system of plane coordinates to be known as
14 the "North Carolina Coordinate System of 1983," said system being defined as a Lambert
15 conformal projection of the "Geodetic Reference System (GRS 80 Ellipsoid)" having a central
16 meridian of 79° – 00' west from Greenwich and standard parallels of latitude of 34° – 20' and
17 36° – 10' north of the equator, along which parallels the scale shall be exact. All coordinates of
18 the system are expressed in metres, the x coordinate being measured easterly along the grid and
19 the y coordinate being measured northerly along the grid. The U.S. Survey Foot, 1 meter =
20 39.37 inches or 3.2808333333 feet, shall be used as a conversion factor. The origin of the
21 coordinates is hereby established on the meridian 79° – 00' west from Greenwich at the
22 intersection of the parallels 33° – 45' north latitude, such origin being given the coordinates x =
23 609,601.22 metres, y = 0 metres. The precise position of said system shall be as marked on the
24 ground by triangulation or traverse stations or monuments established in conformity with the
25 standards adopted by the National Geodetic Survey for first- and second-order work, whose
26 geodetic positions have been rigidly adjusted on the North American Datum of 1983, and
27 whose plane coordinates have been computed on the system defined. Whenever plane
28 coordinates are used in the description or identification of surface area or location within this
29 State, the coordinates shall be identified as "NAD 83", indicating North American Datum of
30 1983, or as "NAD 27", indicating North American Datum of 1927."

31 **SECTION 12.4.(c)** G.S. 102-8 reads as rewritten:

32 **"§ 102-8. Administrative agency.**

33 The administrative agency of the North Carolina Coordinate System shall be the
34 ~~Department of Environment and Natural Resources~~ Department of Public Safety through its
35 appropriate division hereinafter called the "agency.""

36 **SECTION 12.4.(d)** G.S. 102-10 reads as rewritten:

37 **"§ 102-10. Prior work.**

38 The system of stations, monuments, traverses, computations, and other work which has
39 been done or is under way in North Carolina by the so-called North Carolina Geodetic Survey,
40 under the supervision of the United States Coast and Geodetic Survey, is, where consistent with
41 the provisions of this Chapter, hereby made a part of the North Carolina Coordinate System.
42 The surveys, notes, computations, monuments, stations, and all other work relating to the
43 coordinate system, which has been done by said North Carolina Geodetic Survey, under the
44 supervision of and in cooperation with the United States Coast and Geodetic Survey and federal
45 relief agencies, hereby are placed under the direction of, and shall become the property of, the
46 administrative agency. All persons or agencies having in their possession any surveys, notes,
47 computations, or other data pertaining to the aforementioned coordinate system, shall turn over
48 to the Department of ~~Environment and Natural Resources~~ Public Safety such data upon
49 request."

50 **SECTION 12.4.(e)** G.S. 102-12 reads as rewritten:

51 **"§ 102-12. Control system map.**

52 The agency shall prepare for publication and cause to be ~~published before July 1,~~
53 ~~1962,~~ published a map or maps setting forth the location of monuments for both horizontal and
54 vertical control, together with such other pertinent data as the agency may direct for
55 implementation of the North Carolina Coordinate System. The agency shall furnish such map
56 or maps to any person or may make such charge as will defray the expense of printing and
57 distribution. It shall be the responsibility of the agency to maintain this map, make revisions as
58 often as necessary to provide up-to-date information and furnish up-to-date copies to the
59 register of deeds of each county in the State."

1 **SECTION 12.4.(f)** G.S. 47-30(f) reads as rewritten:
2 "**§ 47-30. Plats and subdivisions; mapping requirements.**

3 ...
4 (f) Plat to Contain Specific Information. – Every plat shall contain the following
5 specific information:

6 ...
7 (9) Where the plat is the result of a survey, one or more corners shall, by a
8 system of azimuths or courses and distances, be accurately tied to and
9 coordinated with a horizontal control monument of some United States or
10 State Agency survey system, such as the North Carolina Geodetic Survey
11 where the monument is within 2,000 feet of the subject property. Where the
12 North Carolina Grid System coordinates of the monument are on file in the
13 North Carolina Geodetic Survey Section in the ~~Division of Land Resources~~
14 ~~of the Department of Environment and Natural Resources, Division of~~
15 ~~Emergency Management of the Department of Public Safety,~~ the coordinates
16 of both the referenced corner and the monuments used shall be shown in X
17 (easting) and Y (northing) coordinates on the plat. The coordinates shall be
18 identified as based on "NAD 83," indicating North American Datum of
19 1983, or as "NAD 27," indicating North American Datum of 1927. The tie
20 lines to the monuments shall also be sufficient to establish true north or grid
21 north bearings for the plat if the monuments exist in pairs. Within a
22 previously recorded subdivision that has been tied to grid control, control
23 monuments within the subdivision may be used in lieu of additional ties to
24 grid control. Within a previously recorded subdivision that has not been tied
25 to grid control, if horizontal control monuments are available within 2,000
26 feet, the above requirements shall be met; but in the interest of bearing
27 consistency with previously recorded plats, existing bearing control should
28 be used where practical. In the absence of grid control, other appropriate
29 natural monuments or landmarks shall be used. In all cases, the tie lines shall
30 be sufficient to accurately reproduce the subject lands from the control or
31 reference points used.

32 ..."
33 **SECTION 12.4.(g)** Notwithstanding G.S. 147-33.83, the North Carolina Geodetic
34 Survey Section shall continue to provide free of charge to the Department of Environment and
35 Natural Resources the services provided by the Section to the Department on or prior to the
36 effective date of this act, including the following:

- 37 (1) Surveying assistance and expertise, including all of the following:
38 a. Review of survey plats related to development proposals,
39 remediation activities, and redevelopment of contaminated sites.
40 b. Establishment of oyster lease boundaries.
41 c. Surveys of submerged lands.
42 d. Survey activities required to establish the location of mean high
43 water.
44 (2) Providing surveying assistance and expertise to the Department of Justice
45 related to DENR cases, including expert testimony in administrative
46 contested cases or judicial proceedings.
47 (3) Providing technical training and assistance to DENR agencies in surveying
48 and in the use of GPS and GPS software.
49 (4) Reviewing proposed purchases of GPS equipment by DENR agencies.
50 (5) Surveying lands managed by or lands proposed for acquisition by DENR
51 agencies.

52 **SECTION 12.4.(h)** The Revisor of Statutes shall make the conforming statutory
53 changes necessary to reflect the transfer under this section. The Revisor of Statutes may, where
54 necessitated by this section, correct any reference in the General Statutes and make any other
55 conforming changes.

56 **SECTION 12.4.(i)** Any references in this act to the North Carolina Geodetic
57 Survey Section of the Division of Land Resources of the Department of Environment and
58 Natural Resources shall be construed to refer to the North Carolina Geodetic Survey Section of
59 the Division of Emergency Management of the Department of Public Safety.

PROHIBIT THE CONSTRUCTION OF NEW PIERS/SATELLITE AREAS

SECTION 12.5.(a) G.S. 143B-289.44(b) reads as rewritten:

"(b) Fund. – The North Carolina Aquariums Fund is hereby created as a special and nonreverting fund. The North Carolina Aquariums Fund shall be used for repair, renovation, expansion, maintenance, educational exhibit construction, and operational expenses at existing aquariums, to pay the debt service and lease payments related to the financing of expansions of ~~aquariums, including other relevant satellite areas, aquariums,~~ and to match private funds that are raised for these purposes."

SECTION 12.5.(b) Notwithstanding G.S. 143B-289.44(b), as rewritten by subsection (a) of this section, the North Carolina Aquariums Fund may continue to be used for the North Carolina Aquarium Pier at Nags Head.

SECTION 12.5.(c) Part 5C of Article 7 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-289.45. Satellite areas prohibited absent General Assembly authorization.

Notwithstanding any other provision of law, State funds shall not be used for any of the following purposes unless specifically authorized by the General Assembly:

(1) Construction of any satellite area.

(2) Commencement of any capital project in connection with the construction or acquisition of any satellite area.

(3) Operation of any satellite area.

For purposes of this section, the term "satellite area" means any property or facility that is to be operated by the Division of North Carolina Aquariums that is located somewhere other than on the site of the aquariums at Pine Knoll Shores, Roanoke Island, and Fort Fisher."

SECTION 12.5.(d) Notwithstanding G.S. 143B-289.45, as enacted by subsection (c) of this section, the Division of North Carolina Aquariums may continue to operate the North Carolina Aquarium Pier at Nags Head.

SECTION 12.5.(d1) Grants for projects with partnering local municipalities awarded prior to the effective date of this act may be transferred to the local partnering municipality for completion or fulfillment.

SECTION 12.5.(e) This section is effective when it becomes law.

WILDLIFE RESOURCES COMMISSION BUDGET

SECTION 12.6. The Office of State Budget and Management, the State Controller, the Fiscal Research Division, and the Wildlife Resources Commission shall jointly implement, beginning with the 2013-2014 fiscal year, the use of Budget Code 14350 for budgeting the expenditures and receipts of any Wildlife Resources Commission programs that utilize General Fund appropriations. Receipts from any source utilized to support programs that receive General Fund appropriations shall be expended from Budget Code 14350. It is the intent of the General Assembly that the budgeting change required by this section not adversely impact current federal funding or future funding eligibility. The Governor's Continuation Budget for the 2013-2014 fiscal year shall present the Wildlife Resources Commission operating budget in Budget Code 14350.

CLEAN WATER MANAGEMENT TRUST FUND

SECTION 12.7.(a) Notwithstanding the provisions of G.S. 113A-253(d), up to three million dollars (\$3,000,000) may be used for the 2012-2013 fiscal year for the costs of administering the Clean Water Management Trust Fund, including costs to support the Board of Trustees of the Clean Water Management Trust Fund and its staff, the operating costs of the Board of Trustees of the Clean Water Management Trust Fund and its staff, and the costs of making debt payments to retire debt as provided under G.S. 113A-253(c).

SECTION 12.7.(b) The Board of Trustees of the Fund shall give priority consideration to any Clean Water Management Trust Fund application requesting State matching funds for infrastructure programs and for the Readiness and Environmental Protection Initiative or any other United States Department of Defense program that provides for military buffers and protects the overall military training mission.

AQUARIUM BUDGETING CLARIFICATION

1 **SECTION 12.8.** The Department of Environment and Natural Resources shall
 2 budget all line items related to daily operations of the State aquariums in Budget Code 14300.
 3 The Department may continue to use Budget Code 24300 for special events, activities, debt
 4 service, and other items not related to daily operations of the State aquariums.

5
 6 **PART XIII. DEPARTMENT OF COMMERCE**

7
 8 **NER BLOCK GRANTS**

9 **SECTION 13.1.** Section 14.1 of S.L. 2011-145 reads as rewritten:

10 **"SECTION 14.1.(a)** Appropriations from federal block grant funds are made for the fiscal
 11 year ending ~~June 30, 2012~~, June 30, 2013, according to the following schedule:

12
 13 **COMMUNITY DEVELOPMENT BLOCK GRANT**

| | | |
|----|---|---|
| 14 | 01. State Administration | \$ 1,000,000 |
| 15 | | |
| 16 | 02. State Technical Assistance | 450,000 |
| 17 | | |
| 18 | 03. Scattered Site Housing | 8,000,000 <u>7,200,000</u> |
| 19 | | |
| 20 | 04. Economic Development | 7,210,000 <u>7,000,000</u> |
| 21 | | |
| 22 | 05. Small Business/Entrepreneurship | 3,000,000 <u>2,500,000</u> |
| 23 | | |
| 24 | 06. NC Catalyst | 5,000,000 <u>4,500,000</u> |
| 25 | | |
| 26 | 07. Infrastructure | 19,740,000 <u>20,300,000</u> |
| 27 | | |
| 28 | 08. Capacity Building | 600,000 |
| 29 | | |

30
 31 **TOTAL COMMUNITY DEVELOPMENT**
 32 **BLOCK GRANT – ~~2012~~2013 Program Year** \$ ~~45,000,000~~ \$42,500,000

33 **"SECTION 14.1.(b)** Decreases in Federal Fund Availability. – If federal funds are reduced
 34 below the amounts specified above after the effective date of this act, then every program in
 35 each of these federal block grants shall be reduced by the same percentage as the reduction in
 36 federal funds.

37 **"SECTION 14.1.(c)** Increases in Federal Fund Availability for Community Development
 38 Block Grant. – Any block grant funds appropriated by the Congress of the United States in
 39 addition to the funds specified in this section shall be expended as follows: each program
 40 category under the Community Development Block Grant shall be increased by the same
 41 percentage as the increase in federal funds.

42 **"SECTION 14.1.(d)** Limitations on Community Development Block Grant Funds. – Of
 43 the funds appropriated in this section for the Community Development Block Grant, the
 44 following shall be allocated in each category for each program year: up to one million dollars
 45 (\$1,000,000) may be used for State Administration; ~~up to four hundred fifty thousand dollars~~
 46 ~~(\$450,000) may be used for State Technical Assistance;~~ up to ~~eight million dollars~~
 47 ~~(\$8,000,000)~~seven million two hundred thousand dollars (\$7,200,000) may be used for
 48 Scattered Site Housing; up to ~~seven million two hundred ten thousand dollars~~
 49 ~~(\$7,210,000)~~seven million dollars (\$7,000,000) may be used for Economic Development; up to
 50 ~~three million dollars (\$3,000,000)~~two million five hundred thousand dollars (\$2,500,000) may
 51 be used for Small Business/Entrepreneurship; up to ~~five million dollars (\$5,000,000)~~four
 52 million five hundred thousand dollars (\$4,500,000) shall be used for NC Catalyst; up to
 53 ~~nineteen million seven hundred forty thousand dollars (\$19,740,000)~~twenty million three
 54 hundred thousand dollars (\$20,300,000) may be used for ~~Infrastructure;~~ up to ~~six hundred~~
 55 ~~thousand dollars (\$600,000) may be used for Capacity Building.~~Infrastructure. If federal block
 56 grant funds are reduced or increased by the Congress of the United States after the effective
 57 date of this act, then these reductions or increases shall be allocated in accordance with
 58 subsection (b) or (c) of this section, as applicable.

1 "SECTION 14.1.(e) The Department of Commerce shall consult with the Joint Legislative
 2 Commission on Governmental Operations prior to reallocating Community Development
 3 Block Grant Funds. Notwithstanding the provisions of this subsection, whenever the Director
 4 of the Budget finds that:

- 5 (1) A reallocation is required because of an emergency that poses an imminent
 6 threat to public health or public safety, the Director of the Budget may
 7 authorize the reallocation without consulting the Commission. The
 8 Department of Commerce shall report to the Commission on the reallocation
 9 no later than 30 days after it was authorized and shall identify in the report
 10 the emergency, the type of action taken, and how it was related to the
 11 emergency.
- 12 (2) The State will lose federal block grant funds or receive less federal block
 13 grant funds in the next fiscal year unless a reallocation is made, the
 14 Department of Commerce shall provide a written report to the Commission
 15 on the proposed reallocation and shall identify the reason that failure to take
 16 action will result in the loss of federal funds. If the Commission does not
 17 hear the issue within 30 days of receipt of the report, the Department may
 18 take the action without consulting the Commission.

19 "SECTION 14.1.(f) By ~~September 1, 2011~~, September 1, 2012, the Division of
 20 Community Assistance, Department of Commerce, shall report to the Joint Legislative
 21 Commission on Governmental Operations and the Fiscal Research Division on the use of
 22 Community Development Block Grant Funds appropriated in the prior fiscal year. The report
 23 shall include the following:

- 24 (1) A discussion of each of the categories of funding and how the categories
 25 were selected, including information on how a determination was made that
 26 there was a statewide need in each of the categories.
- 27 (2) Information on the number of applications that were received in each
 28 category and the total dollar amount requested in each category.
- 29 (3) A list of grantees, including the grantee's name, county, category under
 30 which the grant was funded, the amount awarded, and a narrative description
 31 of the project.

32 "SECTION 14.1.(g) For purposes of this section, eligible activities under the category of
 33 Infrastructure in subsection (a) of this section are limited to the installation of public water or
 34 sewer lines and improvements to water or sewer treatment plants that have specific problems
 35 such as being under moratoriums or special orders of consent. Notwithstanding the provisions
 36 of subsection (e) of this section, funds allocated to the Infrastructure category in subsection (a)
 37 of this section shall not be reallocated to any other category."
 38

39 **NC SMALL BUSINESS CONTRACTOR AUTHORITY/REPORTING**
 40 **REQUIREMENT**

41 SECTION 13.3. G.S. 143B-472.102 reads as rewritten:

42 "§ 143B-472.102. Authority creation; powers.

- 43 ...
- 44 (j) Powers and Duties. – The Authority has the following powers and duties:
 45 ...
- 46 (9) To report quarterly to the Joint Legislative Commission on Governmental
 47 Operations on the activities of the Authority, including the amount of rates,
 48 sureties, and bonds. The Authority shall comply with the provisions of this
 49 subdivision only in the fiscal years in which funds are appropriated by the
 50 State to the Authority to perform the powers and duties authorized in this
 51 Part.

52"

53
 54 **DEPARTMENT OF COMMERCE/CHANGES TO STATUTORY REPORTING**
 55 **REQUIREMENTS**

56 SECTION 13.4.(a) G.S. 143B-434.01 reads as rewritten:

57 "§ 143B-434.01. Comprehensive Strategic Economic Development Plan.

58 ...

1 (e) Environmental Scan. – The first step in developing the Plan shall be to develop an
2 environmental scan based on the input from economic development parties and the public and
3 on information about the economic environment in North Carolina. To prepare the scan, the
4 Board shall gather the following information. Thereafter, the information shall be updated
5 periodically. information and ensure that the information is updated periodically. The updated
6 information may be provided in whatever format and through whatever means is most efficient.

7 ...
8 (f) Needs Assessment. – The Board, using data from the public input sessions and the
9 environmental scan, shall prepare an assessment of economic development strengths,
10 weaknesses, threats, and opportunities within the State by Region and by county. An
11 assessment shall also be conducted of each county to determine distressed areas existing within
12 the county. The assessment will include the identification of key development issues within
13 each geographic area and options available to address each issue.

14 ...
15 (k) Annual Report. Evaluation. – The Plan shall contain a section devoted to measuring
16 results, to be called "An Annual Report on Economic Development for the State of North
17 Carolina". The Annual Report shall contain a comparison of actual results with The Board shall
18 annually evaluate the State's economic performance based upon the statistics listed in this
19 subsection and upon the Board's stated goals and objectives in its Plan. and significant and
20 meaningful statistics to allow policymakers to adjust strategy and tactics as necessary to
21 achieve the formulated goals. The statistics upon which the evaluation is made should be
22 available to policymakers. The information may be provided in whatever format and through
23 whatever means is most efficient.

24 The Annual Report shall break down data by Regions and counties including:

25 ...
26 (9) An evaluation of the State's economic performance as indicated by the above
27 statistics with the goals and objectives outlined in the Plan.

28 (l) Accountability. – The Board shall make all data, plans, and reports available to the
29 General Assembly and Assembly, the Joint Legislative Commission on Governmental
30 Operations Operations, the Joint Legislative Economic Development and Global Engagement
31 Oversight Committee, the Senate Appropriations Committee on Natural and Economic
32 Resources, and the House of Representatives Appropriations Subcommittee on Natural and
33 Economic Resources at appropriate times and upon request. The Board shall prepare and make
34 available on an annual basis public reports on each of the major sections of the Plan and the
35 Annual Report indicating the degree of success in attaining each development objective."

36 **SECTION 13.4.(b)** G.S. 143B-435.1 reads as rewritten:

37 **"§ 143B-435.1. Clawbacks.**

38 ...
39 (d) Report. – ~~The~~ By April 1 and October 1 of each year, the Department of Commerce
40 shall report to the Revenue Laws Study Committee by April 1 and October 1 of each year
41 Committee, the Joint Legislative Commission on Governmental Operations, the Senate
42 Appropriations Committee on Natural and Economic Resources, the House of Representatives
43 Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research
44 Division of the General Assembly on (i) all clawbacks that have been triggered under programs
45 it administers the One North Carolina Fund established pursuant to G.S. 143B-437.71, the Job
46 Development Investment Grant Program established pursuant to G.S. 143B-437.52, Job
47 Maintenance and Capital Development Fund established pursuant to G.S. 143B-437.012, the
48 Industrial Development Fund and Utility Account established pursuant to G.S. 143B-437.01,
49 and the Site Infrastructure Fund established pursuant to G.S. 143B-437.02 and (ii) its progress
50 on obtaining repayments. The report must include the name of each business, the event that
51 triggered the clawback, and the amount forfeited or to be repaid."

52 **SECTION 13.4.(c)** G.S. 143B-437.01(c) and (c1) are repealed.

53 **SECTION 13.4.(d)** G.S. 143B-437.07 reads as rewritten:

54 **"§ 143B-437.07. Economic development grant reporting.**

55 (a) Report. – The Department of Commerce must publish on or before ~~March~~ October 1
56 of each year the information required by this subsection, itemized by business entity, for each
57 business or joint private venture to which the State has, in whole or in part, granted one or more
58 economic development incentives during the previous five calendar years. The Department
59 must provide the General Assembly with updated supplemental information consistent with this

1 ~~subsection on a quarterly basis in the form and manner requested by the General~~
 2 ~~Assembly-fiscal year.~~ The information in the report must include all of the following:

3 ...
 4 (2) The date of the award and the date of the award agreement.

5 ...
 6 (b) ~~Online Posting-Posting/Written Submission.~~ – The Department of Commerce must
 7 post on its Internet Web site a summary of the report compiled in subsection (a) of this section.
 8 The summary report must include the information required by subdivisions (2), (9), (11), and
 9 (12) of subsection (a) of this section. By October 1 of each year, the Department of Commerce
 10 must submit the written report required by subsection (a) of this section to the Joint Legislative
 11 Commission on Governmental Operations, the Revenue Laws Study Committee, the Senate
 12 Appropriations Committee on Natural and Economic Resources, the House of Representatives
 13 Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research
 14 Division of the General Assembly.

15 (c) Economic Development Incentive. – An economic development incentive includes
 16 any grant ~~program administered by the Department of Commerce that disburses or awards~~
 17 ~~monies to businesses. Examples of these grant programs include thefrom the following~~
 18 programs: Job Development Investment Grant Program,Program; the Job Maintenance and
 19 Capital Development Fund,Fund; One North Carolina Fund,Fund; and the Industrial
 20 Development Fund, including the Utility Account. The State also incents economic
 21 development through the use of tax expenditures in the form of tax credits and refunds. The
 22 Department of Revenue must report annually on these statutory economic development
 23 incentives, as required under G.S. 105-256."

24 **SECTION 13.4.(e)** G.S. 143B-437.08 is amended by adding a new subsection to
 25 read:

26 "**§ 143B-437.08. Development tier designation.**

27 ...
 28 (k) Report. – By November 30 of each year, the Secretary of Commerce shall submit a
 29 written report to the Joint Legislative Commission on Governmental Operations, 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 on the tier rankings required by subsection (c) of this
 33 section, including a map of the State whereupon the tier ranking of each county is designated."

34 **SECTION 13.4.(f)** G.S. 143B-437.55(d) is repealed.

35 **ALIGN ONE NORTH CAROLINA FUND WITH JDIG PROGRAM**

36 **SECTION 13.6.(a)** The General Assembly acknowledges the importance of
 37 ongoing economic growth and development in this State. To that end, it is the intent of the
 38 General Assembly to fund the commitments of the One North Carolina Fund, as evidenced by
 39 the General Assembly's past and recurring appropriations to the Fund and as set forth in this
 40 section, and to establish a funding structure that aligns with the funding structure that is and has
 41 been used with the Job Development Investment Grant Program. The General Assembly has
 42 continued this level of commitment while remaining fiscally responsible in addressing the other
 43 critical, high-priority needs of the State.

44 **SECTION 13.6.(b)** G.S. 143B-437.71 is amended by adding a new subsection to
 45 read:

46 "**(b1) Awards.** – The maximum amount of total annual liability for grants awarded in any
 47 single calendar year under this Part is fourteen million dollars (\$14,000,000). No agreement
 48 may be entered into that, when considered together with other existing agreements governing
 49 grants awarded during a single calendar year, could cause the State's potential total annual
 50 liability for grants awarded in a single calendar year to exceed this amount."

51 **SECTION 13.6.(c)** G.S. 143B-437.72(b) is amended by adding a new subdivision
 52 to read:

53 "**(b)** Company Performance Agreements. – An agreement between a local government
 54 and a grantee business must contain the following provisions:

55 (1) A commitment to create or retain a specified number of jobs within a
 56 specified salary range at a specific location and commitments regarding the
 57 time period in which the jobs will be created or retained and the minimum
 58 time period for which the jobs must be maintained.
 59

- 1 (2) A commitment to provide proof satisfactory to the local government and the
2 State of new jobs created or existing jobs retained and the salary level of
3 those jobs.
- 4 (3) A provision that funds received under the agreement may be used only for a
5 purpose specified in G.S. 143B-437.71(b).
- 6 (4) A provision allowing the State or the local government to inspect all records
7 of the business that may be used to confirm compliance with the agreement
8 or with the requirements of this Part.
- 9 (5) A provision establishing the method for determining compliance with the
10 agreement.
- 11 (6) A provision establishing a schedule for disbursement of funds under the
12 agreement that allows disbursement of funds only in proportion to the
13 amount of performance completed under the agreement.
- 14 (6a) A provision establishing that a business that has completed performance and
15 become entitled to a disbursement of funds under the agreement must timely
16 request, in writing to the local government, a disbursement of funds within
17 one year from the date of completed performance or forfeit the
18 disbursement.
- 19 (7) A provision requiring recapture of grant funds if a business subsequently
20 fails to comply with the terms of the agreement.
- 21 (8) Any other provision the State or the local government finds necessary to
22 ensure the proper use of State or local funds."

23 **SECTION 13.6.(d)** G.S. 143B-437.72(d) reads as rewritten:

24 "(d) Disbursement of Funds. – Funds may be disbursed from the One North Carolina
25 Fund to the local government only after (i) a business has completed performance and is
26 entitled to a disbursement of funds under the agreement and has requested, in writing to the
27 local government no later than February 1 following the year of completed performance, a
28 disbursement of funds and (ii) the local government has reported to the Secretary of Commerce
29 no later than March 1 following the year of completed performance the total amount of
30 disbursements that have been claimed by businesses in writing during the previous year and has
31 demonstrated that the business has complied with the terms of the company performance
32 agreement. The State shall disburse funds allocated under the One North Carolina Fund to a
33 local government in accordance with the disbursement schedule established in the local
34 government grant agreement no later than August 1 following the year of completed
35 performance in an amount equal to that which the local government reported as having been
36 claimed by businesses in writing during the previous year and demonstrated were due to be
37 disbursed as a result of compliance by the businesses with the terms of the company
38 performance agreements. Disbursements by the State to a local government from the One North
39 Carolina Fund shall be made in one annual payment."

40 **SECTION 13.6.(e)** G.S. 143B-437.74 reads as rewritten:

41 "**§ 143B-437.74. Reports.**~~Reports;~~ **study.**

42 (a) Reports. – The Department of Commerce shall publish a report on the use of funds
43 in the One North Carolina Fund at the end of each fiscal quarter. The report shall contain
44 information on the commitment, disbursement, and use of funds allocated under the One North
45 Carolina Fund. The report is due no later than one month after the end of the fiscal quarter and
46 must be submitted to the following:

- 47 (1) The Joint Legislative Commission on Governmental Operations.
48 (2) The chairs of the House of Representatives and Senate Finance Committees.
49 (3) The chairs of the House of Representatives and Senate Appropriations
50 Committees.
51 (4) The Fiscal Research Division of the General Assembly.

52 (b) Study. – The Department of Commerce shall conduct a study to determine the
53 minimum funding level required to implement the One North Carolina Fund successfully. The
54 Department shall report the results of this study to the House of Representatives Finance
55 Committee, the Senate Finance Committee, the House of Representatives Appropriations
56 Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on
57 Natural and Economic Resources, and the Fiscal Research Division no later than April 1 of
58 each year."

1 **SECTION 13.6.(f)** Part 2H of Article 10 of Chapter 143B of the General Statutes
2 is amended by adding a new section to read:

3 **"§ 143B-437.75. Cash flow requirements.**

4 Notwithstanding any other provision of law, moneys allocated from the One North Carolina
5 Fund shall be budgeted and funded on a cash flow basis. The Office of State Budget and
6 Management shall periodically transfer funds from the One North Carolina Fund established
7 pursuant to G.S. 143B-437.71 to the Department of Commerce in an amount sufficient to
8 satisfy Fund allocations to be transferred pursuant to G.S. 143B-437.72 to be paid during the
9 fiscal year."

10 **SECTION 13.6.(g)** Article 9 of Chapter 143C of the General Statutes is amended
11 by adding a new section to read:

12 **"§ 143C-9-8. One North Carolina Fund Reserve.**

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

16 (b) It is the intent of the General Assembly to appropriate funds annually to the One
17 North Carolina Fund Reserve established in this section in amounts sufficient to meet the
18 anticipated cash requirements for each fiscal year of the One North Carolina Fund Program
19 established pursuant to G.S. 143B-437.71."

20 **SECTION 13.6.(h)** G.S. 143B-437.52 reads as rewritten:

21 **"§ 143B-437.52. Job Development Investment Grant Program.**

22 ...
23 (b) ~~Cap and Priority. – The maximum number of grants the Committee may award in~~
24 ~~each calendar year is 25. In selecting between applicants, a project that is located in an~~
25 ~~Eco-Industrial Park certified under G.S. 143B-437.08 has priority over a comparable project~~
26 ~~that is not located in a certified Eco-Industrial Park.~~

27 (c) ~~Ceiling Awards. – The maximum amount of total annual liability for grants~~
28 ~~awarded in any single calendar year under this Part, including amounts transferred to the~~
29 ~~Utility Account pursuant to G.S. 143B-437.61, may not exceed~~is fifteen million dollars
30 (\$15,000,000). No agreement may be entered into that, when considered together with other
31 existing agreements governing grants awarded during a single calendar year, could cause the
32 State's potential total annual liability for grants awarded in a single calendar year to exceed this
33 amount.

34 "

35 **SECTION 13.6.(i)** This section becomes effective July 1, 2012.

36
37 **INDUSTRIAL COMMISSION FEES/COMPUTER SYSTEM REPLACEMENT**

38 **SECTION 13.7.** Section 14.8 of S.L. 2011-145 reads as rewritten:

39 "**SECTION 14.8.** ~~The~~ For the 2012-2013 fiscal year, the North Carolina Industrial
40 Commission may shall retain the additional revenue generated as a result of an increase in the
41 fee charged to parties for the filing of compromised settlements. These funds shall be used for
42 the purpose of replacing existing computer hardware and software used for the operations of
43 the Commission. These funds may also be used to prepare any assessment of hardware and
44 software needs prior to purchase and to develop and administer the needed databases and new
45 Electronic Case Management System, including the establishment of two time-limited positions
46 for application development and support and mainframe migration. The Commission may not
47 retain any fees under this section unless they are in excess of the former two-hundred-dollar
48 (\$200.00) fee charged by the Commission for filing a compromised settlement."

49
50 **EMPLOYMENT SECURITY RESERVE FUND**

51 **SECTION 13.8.(a)** Section 14.4 of S.L. 2011-145 reads as rewritten:

52 "**SECTION 14.4.(a)** Funds from the Employment Security ~~Commission~~ Reserve Fund
53 shall be available to the ~~Employment Security Commission of North Carolina~~ Department of
54 Commerce, Division of Employment Security, to use as collateral to secure federal funds and to
55 pay the administrative costs associated with the collection of the Employment Security
56 ~~Commission~~ Reserve Fund surcharge. The total administrative costs paid with funds from the
57 Reserve in the ~~2011-2012~~ 2012-2013 fiscal year shall not exceed two million five hundred
58 thousand dollars (\$2,500,000).

1 "SECTION 14.4.(b) There is appropriated from the Employment Security ~~Commission~~
2 Reserve Fund to the ~~Employment Security Commission of North Carolina~~ Department of
3 Commerce, Division of Employment Security, the sum of twenty million dollars (\$20,000,000)
4 for the ~~2011-2012~~ 2012-2013 fiscal year to be used for the following purposes:

- 5 (1) \$19,500,000 for the operation and support of local Employment Security
6 ~~Commission offices~~ offices operated by the Division of Employment
7 Security.
- 8 (2) \$200,000 to operate the system that tracks former participants in State
9 education and training programs.
- 10 (3) \$300,000 to maintain compliance with Chapter 96 of the General Statutes,
11 which directs the ~~Commission~~ Department of Commerce, Division of
12 Employment Security, to employ the Common Follow-Up Management
13 Information System to evaluate the effectiveness of the State's job training,
14 education, and placement programs.

15 "SECTION 14.4.(c) There is appropriated from the Employment Security ~~Commission~~
16 Reserve Fund to the ~~Employment Security Commission of North Carolina~~ Department of
17 Commerce, Division of Employment Security, an amount not to exceed one million dollars
18 (\$1,000,000) for the ~~2011-2012~~ 2012-2013 fiscal year to fund State initiatives not currently
19 funded through federal grants.

20 "SECTION 14.4.(d) There is appropriated from the Worker Training Trust Fund to the
21 ~~Employment Security Commission of North Carolina~~ Department of Commerce, Division of
22 Employment Security, the sum of one million dollars (\$1,000,000) for the
23 ~~2011-2012~~ 2012-2013 fiscal year to fund "Opportunity NC," which provides work-based
24 training opportunities to recipients of unemployment insurance benefits. Opportunity NC must
25 meet all of the following factors:

- 26 (1) The training, even though it includes actual operation of the facilities of the
27 employer, is similar to what would be given in a vocational school or
28 academic educational instruction.
- 29 (2) The training is for the benefit of the trainee.
- 30 (3) The trainees do not displace regular employees, but work under their close
31 observation.
- 32 (4) The employer who provides the training derives no immediate advantage
33 from the activities of the trainees, and, on occasion, the employer's
34 operations may actually be impeded.
- 35 (5) The trainees are not necessarily entitled to a job at the conclusion of the
36 training period.
- 37 (6) The employer and the trainees understand that the trainees are not entitled
38 to wages for the time spent in training.

39 "SECTION 14.4.(e) Of the funds credited to and held in the State of North Carolina's
40 account in the Unemployment Trust Fund by the Secretary of the Treasury of the United States
41 pursuant to and in accordance with section 903 of the Social Security Act and pursuant to Title
42 II of Division B of P.L. 111-5, the Assistance for Unemployed Workers and Struggling
43 Families Act, the ~~Employment Security Commission of North Carolina~~ Department of
44 Commerce, Division of Employment Security, may expend the sum of two hundred five
45 million sixty-three thousand five hundred fifty-two dollars (\$205,063,552) as follows: (i) one
46 hundred million dollars (\$100,000,000) shall be used to design and build the integrated
47 unemployment insurance benefit and tax accounting system and (ii) the remaining funds shall
48 be used for the operation of the unemployment insurance program.

49 "SECTION 14.4.(f) There is appropriated from the Employment Security Reserve Fund to
50 the Department of Commerce, Division of Employment Security, the amount needed for the
51 2012-2013 fiscal year to fund the interest payment due to the federal government for the debt
52 owed to the U.S. Treasury for unemployment benefits."

53 SET REGULATORY FEE FOR UTILITIES COMMISSION

54 SECTION 13.8A. Section 31.4 of S.L. 2011-145 reads as rewritten:

55 "SECTION 31.4.(a) The percentage rate to be used in calculating the public utility
56 regulatory fee under G.S. 62-302(b)(2) is twelve-hundredths of one percent (0.12%) for each
57 public utility's North Carolina jurisdictional revenues earned during each quarter that begins on
58 or after July 1, 2011. July 1, 2012.

1 "SECTION 31.4.(b) The electric membership corporation regulatory fee imposed under
2 G.S. 62-302(b1) for the ~~2011-2012~~2012-2013 fiscal year is two hundred thousand dollars
3 (\$200,000).

4 "SECTION 31.4.(c) This section becomes effective ~~July 1, 2011~~July 1, 2012."

6 COUNCIL OF GOVERNMENT FUNDS

7 SECTION 13.10. Section 14.12A(a) of S.L. 2011-145 is repealed.

9 GRASSROOTS SCIENCE PROGRAM

10 SECTION 13.11. Section 14.11 of S.L. 2011-145 is amended by adding a new
11 subsection to read as follows:

12 "SECTION 14.11.(b1) Any reductions in funds in the 2012-2013 fiscal year shall be taken
13 on a pro rata basis from the museums listed in subsection (b) of this section."

15 REGIONAL ECONOMIC DEVELOPMENT COMMISSIONS ALLOCATIONS

16 SECTION 13.12. Section 14.13 of S.L. 2011-145, as amended by Section 37 of
17 S.L. 2011-391, reads as rewritten:

18 "REGIONAL ECONOMIC DEVELOPMENT COMMISSIONS ALLOCATIONS

19 "SECTION 14.13.(a) Funds appropriated in this act to the Department of Commerce for
20 regional economic development commissions shall be allocated to the following commissions
21 in accordance with subsection (b) of this section: Western North Carolina Regional Economic
22 Development Commission, Research Triangle Regional Partnership, Southeastern North
23 Carolina Regional Economic Development Commission, Piedmont Triad Partnership,
24 Northeastern North Carolina Regional Economic Development Commission, North Carolina's
25 Eastern Region Economic Development Partnership, and Carolinas Partnership, Inc.

26 "SECTION 14.13.(b) Funds appropriated pursuant to subsection (a) of this section shall be
27 allocated to each regional economic development commission as follows:

28 (1) First, the Department shall establish each commission's allocation by
29 determining the sum of allocations to each county that is a member of that
30 commission. Each county's allocation shall be determined by dividing the
31 county's development factor by the sum of the development factors for
32 eligible counties and multiplying the resulting percentage by the amount of
33 the appropriation. As used in this subdivision, the term "development factor"
34 means a county's development factor as calculated under G.S. 143B-437.08;
35 and

36 (2) Next, the Department shall subtract from funds allocated to the North
37 Carolina's Eastern Region Economic Development Partnership the sum of
38 ~~one hundred seventy four thousand eight hundred ninety dollars (\$174,890)~~
39 one hundred sixty-one thousand eight hundred sixty-one dollars (\$161,861)
40 in the ~~2011-2012~~ 2012-2013 fiscal year, which sum represents (i) the total
41 interest earnings in the prior fiscal year on the estimated balance of the seven
42 million five hundred thousand dollars (\$7,500,000) appropriated to the
43 Global TransPark Development Zone in Section 6 of Chapter 561 of the
44 1993 Session Laws and (ii) the total interest earnings in the prior fiscal year
45 on loans made from the seven million five hundred thousand dollars
46 (\$7,500,000) appropriated to the Global TransPark Development Zone in
47 Section 6 of Chapter 561 of the 1993 Session Laws; and

48 (3) Next, the Department shall redistribute the sum of ~~one hundred seventy four~~
49 ~~thousand eight hundred ninety dollars (\$174,890)~~ one hundred sixty-one
50 thousand eight hundred sixty-one dollars (\$161,861) in the ~~2011-2012~~
51 2012-2013 fiscal year to the seven regional economic development
52 commissions named in subsection (a) of this section. Each commission's
53 share of this redistribution shall be determined according to the development
54 factor formula set out in subdivision (1) of this subsection. This
55 redistribution shall be in addition to each commission's allocation
56 determined under subdivision (1) of this subsection.

57 "SECTION 14.13.(c) No more than one hundred twenty thousand dollars (\$120,000) in
58 State funds shall be used for the annual salary of any one employee of a regional economic
59 development commission.

1 "SECTION 14.13.(d) The General Assembly finds that successful economic development
 2 requires the collaboration of the State, regions of the State, counties, and municipalities.
 3 Therefore, the regional economic development commissions are encouraged to seek
 4 supplemental funding from their county and municipal partners to continue and enhance their
 5 efforts to attract and retain business in the State."
 6

7 **BIOFUELS CENTER OF NORTH CAROLINA**

8 **SECTION 13.12A.** Section 14.14 of S.L. 2011-145 is amended by adding a new
 9 subsection to read as follows:

10 "SECTION 14.14.(a1) Any reductions in funds in the 2012-2013 fiscal year shall be taken
 11 on a pro rata basis from the programs listed in subsection (a) of this section."
 12

13 **NORTH CAROLINA BIOTECHNOLOGY CENTER**

14 **SECTION 13.12B.** Section 14.15 of S.L. 2011-145 is amended by adding a new
 15 subsection to read as follows:

16 "SECTION 14.15.(a1) Any reductions in funds in the 2012-2013 fiscal year shall be taken
 17 on a pro rata basis from the programs listed in subsection (a) of this section."
 18

19 **RURAL CENTER/RURAL JOBS FUND**

20 **SECTION 13.13.** Section 14.20(d) of S.L. 2011-145 reads as rewritten:

21 "**SECTION 14.20.(d)** Rural Jobs Infrastructure Grants. – A Rural Jobs Infrastructure
 22 Grant is available to supplement other funds to be applied to the construction or installation
 23 costs of an eligible project. Other funds contributed to the project may include federal funds,
 24 State funds, and local funds, including contributions from private sector enterprises that may
 25 benefit from the proposed improvements. A Rural Jobs Infrastructure Grant is subject to the
 26 following provisions:

- 27 (1) Eligibility. – A local government unit is eligible for a Rural Jobs
 28 Infrastructure Grant if it is a rural county or is located in a rural county.
- 29 (2) Maximum grant amount. – Grant funds shall be available based upon the
 30 number of private sector jobs to be created as a result of the investment from
 31 the Rural Jobs Infrastructure Grant Fund. An applicant for a grant may
 32 request up to five thousand dollars (\$5,000) per job to be created. An
 33 applicant for a Rural Jobs Infrastructure Grant shall not receive more than
 34 five hundred thousand dollars (\$500,000) for a proposed infrastructure
 35 project. Notwithstanding the provisions of this subdivision, the Rural Center
 36 may, if it deems it reasonable and appropriate based upon the number of
 37 private sector jobs created and/or the anticipated benefits to the community,
 38 award grant funds to a local government that exceed five thousand dollars
 39 (\$5,000) per job to be created, provided that the average amount of the total
 40 grant funds from the funds appropriated in subsection (a) of this section does
 41 not exceed five thousand dollars (\$5,000) per job to be created.
- 42 (3) Matching funds. – A local government unit shall match a Rural Jobs
 43 Infrastructure Grant on a dollar-for-dollar basis. As part of the matching
 44 funds, recipients of grant funds under the provisions of this section shall
 45 contribute a cash match for the grant that is equivalent to at least five percent
 46 (5%) of the grant amount. The required applicant cash-matching contribution
 47 shall come from local resources and may not be derived from other State or
 48 federal grant funds or from funds provided by the Rural Center."
 49

50 **RURAL ECONOMIC DEVELOPMENT CENTER**

51 **SECTION 13.13A.** Section 14.16(a) of S.L. 2011-145 reads as rewritten:

52 "**SECTION 14.16.(a)** Of the funds appropriated in this act to the North Carolina Rural
 53 Economic Development Center, Inc., (Rural Center) the sum of ~~three million five hundred~~
 54 ~~eighty three thousand six hundred ninety one dollars (\$3,583,691)~~ two million three hundred
 55 fifty-one thousand two hundred sixty-three dollars (\$2,351,263) for each year in the 2011-2013
 56 biennium ~~the 2012-2013 fiscal year shall be allocated as follows:~~

| | 2011-2012 | 2012-2013 |
|---|-------------|----------------------------------|
| Center Administration, Technical Assistance, & Oversight | \$1,302,173 | \$1,302,173 \$854,357 |

| | | | |
|---|--------------------------------------|-----------|---------------------------------|
| 1 | Research and Demonstration Grants | \$294,120 | \$294,120 \$192,972 |
| 2 | Institute for Rural Entrepreneurship | \$114,570 | \$114,570 \$75,170 |
| 3 | Community Development Grants | \$844,250 | \$844,250 \$553,913 |
| 4 | Microenterprise Loan Program | \$155,610 | \$155,610 \$102,096 |
| 5 | Water/Sewer/Business Development | | |
| 6 | Matching Grants | \$701,955 | \$701,955 \$460,553 |
| 7 | Statewide Water/Sewer Database | \$79,523 | \$79,523 \$ 52,175 |
| 8 | Agricultural Advancement Consortium | \$91,490 | \$91,490 \$ 60,027." |
| 9 | | | |

RURAL ECONOMIC DEVELOPMENT CENTER/INFRASTRUCTURE PROGRAM

SECTION 13.14. Section 14.17 of S.L. 2011-145 reads as rewritten:

"**SECTION 14.17.(a)** Of the funds appropriated in this act to the North Carolina Rural Economic Development Center, Inc. (Rural Center), the sum of ~~sixteen million five hundred five thousand seven hundred fifty eight dollars (\$16,505,758)~~ ten million eight hundred twenty-nine thousand four hundred forty-six dollars (\$10,829,446) for each year in the ~~2011-2013 biennium~~ the 2012-2013 fiscal year shall be allocated as follows:

- (1) To continue the North Carolina Infrastructure Program. The purpose of the Program is to provide grants to local governments to construct critical water and wastewater facilities and to provide other infrastructure needs, including technology needs, to sites where these facilities will generate private job-creating investment. The grants under this Program shall not be subject to the provisions of G.S. 143-355.4.
- (2) To provide matching grants or loans to local governments in distressed areas that will productively reuse vacant buildings and properties, with priority given to towns or communities with populations of less than 5,000.
- (3) To provide grants and technical assistance to reinvigorate the economies of towns with populations of less than 7,500, and to invest in economic innovation that stimulates business and job growth in distressed areas.
- (4) Recipients of grant funds appropriated under this section shall contribute a cash match for the grant that is equivalent to at least five percent (5%) of the grant amount. The cash match shall come from local resources and may not be derived from other State or federal grant funds or from funds provided by the Rural Center.

...
SECTION 14.17.(c) ~~During each year of the 2011-2013 biennium,~~ For the 2012-2013 fiscal year, the Rural Center may use up to ~~three hundred twenty nine thousand one hundred seventy eight dollars (\$329,178)~~ two hundred fifteen thousand nine hundred seventy-four dollars (\$215,974) of the funds appropriated in this act to cover its expenses in administering the North Carolina Economic Infrastructure Program.

OPPORTUNITIES INDUSTRIALIZATION CENTERS FUNDS

SECTION 13.14A. Section 14.18(a) of S.L. 2011-145 reads as rewritten:

"**SECTION 14.18.(a)** Of the funds appropriated in this act to the North Carolina Rural Economic Development Center, Inc. (Rural Center), the sum of ~~two hundred eighty seven thousand two hundred eighty dollars (\$287,280)~~ one hundred eighty-eight thousand four hundred eighty-five dollars (\$188,485) for each year in the ~~2011-2013 biennium~~ the 2012-2013 fiscal year shall be equally distributed among the certified Opportunities Industrialization Centers (OI Centers)."

REGIONAL ECONOMIC DEVELOPMENT COMMISSIONS/STUDY

SECTION 13.15. The Legislative Research Commission is authorized to study the funding and alignment of the membership of each of the regional economic development commissions listed in Section 14.13 of S.L. 2011-145, as amended by Section 37 of S.L. 2011-391, in order to determine (i) whether the needs of each member organization are being adequately served by the commission of which it is a member and (ii) whether there are areas in which improvement in service can be made in the most cost-effective manner.

PART XIV. DEPARTMENT OF PUBLIC SAFETY

DIVISION OF ADULT CORRECTION/RELEASE DATES

SECTION 14.1. Notwithstanding any other provision of law, the Division of Adult Correction may establish more than two release dates per month for inmates leaving prison.

INMATE MEDICAL COSTS

SECTION 14.2.(a) Section 19.20 of S.L. 2009-451 is repealed.

SECTION 14.2.(b) Section 18.10(d) of S.L. 2011-145 reads as rewritten:

"SECTION 18.10.(d) ~~The Department of~~ Division of Adult Correction shall report to the Joint Legislative Commission on Governmental Operations Oversight Committee on Justice and Public Safety and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety no later than ~~November 1, 2011~~ November 1, 2012, and quarterly thereafter on:

- (1) 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; and~~ providers.
- (2) 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.
- (3) The volume of services provided by community medical providers that are emergent cases requiring hospital admissions and emergent cases not requiring hospital admissions.
- (4) 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.
- (5) The status of the Division's efforts to contract with hospitals to provide secure wards in each of the State's five prison regions."

JUSTICE REINVESTMENT ACT/LIMITED AUTHORITY TO RECLASSIFY VACANT POSITIONS

SECTION 14.2A.(a) Notwithstanding any other provision of law, subject to the approval of the Director of the Budget, the Secretary of Public Safety may reclassify existing vacant positions within the Department to create new probation parole officer and judicial service coordinator positions, in order to meet the increasing caseloads resulting from the implementation of the Justice Reinvestment Act of 2011, S.L. 2011-192, as amended.

SECTION 14.2A.(b) The Department of Public Safety shall report to the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety by March 1, 2013, on the following:

- (1) The position number, position type, salary, and position location of each new position created under the authority of this section.
- (2) The position number, position type, fund code, and position location of each vacant position used to create new positions under the authority of this section.

STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS

SECTION 14.4. Funds appropriated in this act to the Department of Public Safety for the Division of Juvenile Justice for the 2012-2013 fiscal year may be used as matching funds for the Juvenile Accountability Incentive Block Grants. If North Carolina receives Juvenile Accountability Incentive Block Grants or a notice of funds to be awarded, the Office of State Budget and Management and the Governor's Crime Commission shall consult with the Division of Juvenile Justice regarding the criteria for awarding federal funds. The Office of State Budget and Management, the Governor's Crime Commission, and the Division of Juvenile Justice shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Commission on Governmental Operations prior to allocation of the federal funds. The report shall identify the amount of funds to be received for the 2012-2013 fiscal year and the allocation of funds by program and purpose. Any Juvenile Accountability Incentive Block Grant awarded to North Carolina is subject to the provisions of G.S. 143C-7-1 and shall not obligate the State financially in future fiscal years.

JUVENILE CRIME PREVENTION COUNCIL FUNDS

SECTION 14.7. Section 17.4(b) of S.L. 2011-145 reads as rewritten:

"**SECTION 17.4.(b)** Of the funds appropriated by this act for the ~~2011-2012~~2012-2013 fiscal year to the ~~Department of Juvenile Justice and Delinquency Prevention~~ Department of Public Safety for Juvenile Crime Prevention Council grants, the sum of one hundred twenty-one thousand six hundred dollars (\$121,600) shall be transferred to Project Challenge North Carolina, Inc., to be used for the continued support of Project Challenge programs throughout the State."

PART XV. DEPARTMENT OF JUSTICE**ITEMIZED BILLING FOR LEGAL SERVICES PROVIDED TO STATE AGENCIES**

SECTION 15.1. Article 1 of Chapter 114 of the General Statutes is amended by adding a new section to read:

"§ 114-8.5. Itemized billing for legal services provided to State agencies.

Whenever the Department of Justice charges a State agency, board, or commission for legal services rendered by the Department, the Department shall do so by providing the agency, board, or commission with an invoice that includes at least all of the following information for all charges:

- (1) The case or matter for which the agency, board, or commission is being charged.
- (2) The name of each attorney who worked on each case or matter and the number of hours worked by each attorney.
- (3) The hourly rate being charged by each attorney."

BIANNUAL REPORTING ON ATTORNEY ACTIVITY

SECTION 15.2. Beginning on February 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 and Senate Appropriations Subcommittees on Justice and Public Safety and with the Fiscal Research Division of the General Assembly 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. The report shall include at least 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.

ESTABLISH HUMAN TRAFFICKING COMMISSION

SECTION 15.3.(a) Establishment. – There is established in the Department of Justice the North Carolina Human Trafficking Commission.

SECTION 15.3.(b) Members. – The Commission shall consist of 12 members as follows:

- (1) The President Pro Tempore of the Senate shall appoint one representative from each of the following:
 - a. The public at large.
 - b. A county sheriff's department.

- 1 c. A city or town police department.
2 (2) The Speaker of the House of Representatives shall appoint one
3 representative from each of the following:
4 a. The public at large.
5 b. A county sheriff's department.
6 c. A city or town police department.
7 (3) The Governor shall appoint one representative from the public at large.
8 (4) The following persons, or their designees, shall serve as ex officio members
9 of the Commission:
10 a. The Secretary of Public Safety.
11 b. The Secretary of Administration.
12 c. The Secretary of Labor.
13 d. The Secretary of Health and Human Services.
14 e. The Attorney General.

15 **SECTION 15.3.(c) Powers.** – The Commission shall have the following powers:

- 16 (1) To apply for and receive, on behalf of the State, funding from federal, public
17 or private initiatives, grant programs, or donors that will assist in examining
18 and countering the problem of human trafficking in North Carolina.
19 (2) To commission, fund, and facilitate quantitative and qualitative research to
20 explore the specific ways human trafficking is occurring in North Carolina
21 and the links to international and domestic human trafficking, and to assist in
22 creating measurement, assessment, and accountability mechanisms.
23 (3) To contribute to efforts to inform and educate law enforcement personnel,
24 social services providers, and the general public about human trafficking so
25 that human traffickers can be prosecuted and victim-survivors can receive
26 appropriate services.
27 (4) To suggest new policies, procedures, or legislation to further the work of
28 eradicating human trafficking and to provide assistance and review with new
29 policies, procedures, and legislation.
30 (5) To assist in developing regional response teams or other coordinated efforts
31 to counter human trafficking at the level of law enforcement, legal services,
32 social services, and nonprofits.
33 (6) To identify gaps in law enforcement or service provision and recommend
34 solutions to those gaps.
35 (7) To consider whether human trafficking should be added to the list of
36 criminal convictions that require registration under the sex offender and
37 public protection registration program.

38 **SECTION 15.3.(d) Terms.** – Members shall serve until the Commission
39 terminates.

40 **SECTION 15.3.(e) Meetings.** – The chair shall convene the Commission. Meetings
41 shall be held as often as necessary, but not less than four times a year.

42 **SECTION 15.3.(f) Quorum.** – A majority of the members of the Commission shall
43 constitute a quorum for the transaction of business. The affirmative vote of a majority of the
44 members present at meetings of the Commission shall be necessary for action to be taken by
45 the Commission.

46 **SECTION 15.3.(g) Vacancies.** – A vacancy on the Commission or as chair of the
47 Commission resulting from the resignation of a member or otherwise shall be filled in the same
48 manner in which the original appointment was made, and the term shall be for the balance of
49 the unexpired term.

50 **SECTION 15.3.(h) Removal.** – The Commission may remove a member for
51 misfeasance, malfeasance, nonfeasance, or neglect of duty.

52 **SECTION 15.3.(i) Compensation.** – Commission members shall receive no per
53 diem for their services but shall be entitled to receive travel allowances in accordance with the
54 provisions of G.S. 138-5 or G.S. 138-6, as appropriate.

55 **SECTION 15.3.(j) Staffing.** – The Department of Justice shall be responsible for
56 staffing the Commission.

57 **SECTION 15.3.(k) Termination.** – The Commission established under this section
58 shall terminate on December 31, 2014.
59

PART XVI. JUDICIAL DEPARTMENT**STUDY MANAGEMENT OF MAGISTRATE SCHEDULES**

SECTION 16.1. The Administrative Office of the Courts shall study the management of magistrate schedules throughout the General Court of Justice and make recommendations to (i) provide for more efficient use of the magistrates established for each county; and (ii) ensure that each county has sufficient coverage to adequately respond to law enforcement and the public. The Administrative Office of the Courts shall report its finding and recommendations to the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety by March 1, 2013.

FOREIGN LANGUAGE INTERPRETERS FOR THE COURTS

SECTION 16.3.(a) G.S. 7A-314(f) is repealed.

SECTION 16.3.(b) G.S. 7A-343 reads as rewritten:

"§ 7A-343. Duties of Director.

The Director is the Administrative Officer of the Courts, and the Director's duties include all of the following:

...

(9c) Prescribe policies and procedures for the appointment and payment of foreign language ~~interpreters in those cases specified in G.S. 7A-314(f).~~ interpreters. These policies and procedures shall be applied uniformly throughout the General Court of Justice. After consultation with the Joint Legislative Commission on Governmental Operations, the Director may also convert contractual foreign language interpreter positions to permanent State positions when the Director determines that it is more cost-effective to do so.

...."

SECTION 16.3.(c) The Judicial Department may use funds appropriated and funds available to the Department to provide assistance to persons with limited proficiency in English to assist the court in the fair, efficient, and accurate transaction of business and provide more meaningful access to the courts.

EXTEND SUNSET ON PILOT PROJECT FOR ELECTRONIC FILING IN DOMESTIC VIOLENCE AND CIVIL NO-CONTACT CASES IN ALAMANCE COUNTY

SECTION 16.4.(a) Section 15.13(b) of S.L. 2010-31 reads as rewritten:

"SECTION 15.13.(b) This section expires ~~June 30, 2012.~~ June 30, 2014."

SECTION 16.4.(b) This section becomes effective June 30, 2012.

EXPAND USES FOR COURT INFORMATION TECHNOLOGY FUND

SECTION 16.5.(a) G.S. 7A-343.2 reads as rewritten:

"§ 7A-343.2. Court Information Technology and Facilities Fund.

(a) Fund. – The Court Information Technology and Facilities Fund is established within the Judicial Department as a special revenue fund. Interest and other investment income earned by the Fund accrues to it. The Fund consists of the following revenues:

- (1) All monies collected by the Director pursuant to G.S. 7A-109(d) and G.S. 7A-49.5.
- (2) State judicial facilities fees credited to the Fund under G.S. 7A-304 through G.S. 7A-307.

(b) Use. – Money in the Fund derived from State judicial facilities fees must be used to upgrade, maintain, and operate State judicial facilities and the judicial and county courthouse phone systems. All other monies in the Fund must be used to supplement funds otherwise available to the Judicial Department for court information technology and office automation needs.

(c) Report. – The Director must report by August 1 and February 1 of each year to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House Appropriations Committees, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety. The report must include the following:

- (1) Amounts credited in the preceding six months to the Fund.

1 (2) Amounts expended in the preceding six months from the Fund and the
2 purposes of the expenditures.

3 (3) Proposed expenditures of the monies in the Fund."

4 **SECTION 16.5.(b)** G.S. 7A-304 reads as rewritten:

5 **"§ 7A-304. Costs in criminal actions.**

6 (a) In every criminal case in the superior or district court, wherein the defendant is
7 convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the
8 prosecuting witness, the following costs shall be assessed and collected. No costs may be
9 assessed when a case is dismissed. Costs under this section may not be waived unless the judge
10 makes a written finding of just cause to grant such a waiver.

11 ...

12 (2a) For the upgrade, maintenance, and operation of State judicial facilities and
13 the judicial and county courthouse phone systems, the sum of four dollars
14 (\$4.00), to be credited to the Court Information Technology and Facilities
15 Fund.

16"

17 **SECTION 16.5.(c)** G.S. 7A-305 reads as rewritten:

18 **"§ 7A-305. Costs in civil actions.**

19 (a) In every civil action in the superior or district court, except for actions brought
20 under Chapter 50B of the General Statutes, shall be assessed:

21 ...

22 (1a) For the upgrade, maintenance, and operation of State judicial facilities and
23 the judicial and county courthouse phone systems, the sum of four dollars
24 (\$4.00), to be credited to the Court Information Technology and Facilities
25 Fund.

26 ...

27 (a5) In every civil action in the superior or district court wherein a party files a pleading
28 containing one or more counterclaims or cross-claims, except for counterclaim and cross-claim
29 actions brought under Chapter 50B of the General Statutes for which costs are assessed
30 pursuant to subsection (a1) of this section, the following shall be assessed:

31 ...

32 (2) For the upgrade, maintenance, and operation of State judicial facilities and
33 the judicial and county courthouse phone systems, the sum of four dollars
34 (\$4.00), to be credited to the Court Information Technology and Facilities
35 Fund.

36"

37 **SECTION 16.5.(d)** G.S. 7A-306 reads as rewritten:

38 **"§ 7A-306. Costs in special proceedings.**

39 (a) In every special proceeding in the superior court, the following costs shall be
40 assessed:

41 ...

42 (1a) For the upgrade, maintenance, and operation of State judicial facilities and
43 the judicial and county courthouse phone systems, the sum of four dollars
44 (\$4.00), to be credited to the Court Information Technology and Facilities
45 Fund.

46"

47 **SECTION 16.5.(e)** G.S. 7A-307 reads as rewritten:

48 **"§ 7A-307. Costs in administration of estates.**

49 (a) In the administration of the estates of decedents, minors, incompetents, of missing
50 persons, and of trusts under wills and under powers of attorney, in trust proceedings under
51 G.S. 36C-2-203, in estate proceedings under G.S. 28A-2-4, and in collections of personal
52 property by affidavit, the following costs shall be assessed:

53 ...

54 (1a) For the upgrade, maintenance, and operation of State judicial facilities and
55 the judicial and county courthouse phone systems, the sum of four dollars
56 (\$4.00), to be credited to the Court Information Technology and Facilities
57 Fund.

58"

59 **SECTION 16.5.(f)** G.S. 7A-49.5(d) reads as rewritten:

1 "(d) Any funds received by the Administrative Office of the Courts from the vendor
2 selected pursuant to subsection (c) of this section, other than applicable statutory court costs, as
3 a result of electronic filing, shall be deposited in the Court Information Technology and
4 Facilities Fund in accordance with G.S. 7A-343.2."

5 **SECTION 16.5.(g)** G.S. 7A-109(d) reads as rewritten:

6 "(d) In order to facilitate public access to court records, except where public access is
7 prohibited by law, the Director may enter into one or more nonexclusive contracts under
8 reasonable cost recovery terms with third parties to provide remote electronic access to the
9 records by the public. Costs recovered pursuant to this subsection shall be remitted to the State
10 Treasurer to be held in the Court Information Technology and Facilities Fund established in
11 G.S. 7A-343.2."

12 **SECTION 16.5.(h)** G.S. 7A-455.1(f) reads as rewritten:

13 "(f) Of each appointment fee collected under this section, the sum of fifty-five dollars
14 (\$55.00) shall be credited to the Indigent Persons' Attorney Fee Fund and the sum of five
15 dollars (\$5.00) shall be credited to the Court Information Technology and Facilities Fund under
16 G.S. 7A-343.2. These fees shall not revert."

17 **SECTION 16.5.(i)** This section is effective when it becomes law, and expires June
18 30, 2013.

20 **WAIVER OF MEDIATION FEES TO REQUIRE FINDING OF JUST CAUSE**

21 **SECTION 16.6.(a)** G.S. 7A-38.7 reads as rewritten:

22 "**§ 7A-38.7. Dispute resolution fee for cases resolved in mediation.**

23 (a) In each criminal case filed in the General Court of Justice that is resolved through
24 referral to a community mediation center, a dispute resolution fee shall be assessed in the sum
25 of sixty dollars (\$60.00) per mediation to support the services provided by the community
26 mediation centers and the Mediation Network of North Carolina. Fees assessed under this
27 section shall be paid to the clerk of superior court in the county where the case was filed and
28 remitted by the clerk to the Mediation Network of North Carolina. The Mediation Network
29 may retain up to three dollars (\$3.00) of this amount as an allowance for its administrative
30 expenses. The Mediation Network must remit the remainder of this amount to the community
31 mediation center that mediated the case. The court may waive or reduce a fee assessed under
32 this section only upon entry of a written order, supported by findings of fact and conclusions of
33 law, determining there is just cause to grant the waiver or reduction.

34 (b) Before providing the district attorney with a dismissal form, the community
35 mediation center shall require proof that the defendant has paid the dispute resolution fee as
36 required by subsection (a) of this section and shall attach the receipt to the dismissal form."

37 **SECTION 16.6.(b)** G.S. 7A-304(a) reads as rewritten:

38 "(a) In every criminal case in the superior or district court, wherein the defendant is
39 convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the
40 prosecuting witness, the following costs shall be assessed and collected. No costs may be
41 assessed when a case is dismissed. ~~Costs under this section may not be waived unless the judge~~
42 ~~makes a written finding of just cause to grant such a waiver. Only upon entry of a written order,~~
43 supported by findings of fact and conclusions of law, determining that there is just cause, the
44 court may (i) waive costs assessed under this section or (ii) waive or reduce costs assessed
45 under subdivisions (7) or (8) of this section.

46 ...
47 (7) For the services of the North Carolina State Crime Laboratory facilities, the
48 district or superior court judge shall, upon conviction, order payment of the
49 sum of six hundred dollars (\$600.00) to be remitted to the Department of
50 Justice for support of the State Bureau of Investigation. This cost shall be
51 assessed only in cases in which, as part of the investigation leading to the
52 defendant's conviction, the laboratories have performed DNA analysis of the
53 crime, tests of bodily fluids of the defendant for the presence of alcohol or
54 controlled substances, or analysis of any controlled substance possessed by
55 the defendant or the defendant's agent. ~~The court may waive or reduce the~~
56 ~~amount of the payment required by this subdivision upon a finding of just~~
57 ~~cause to grant such a waiver or reduction.~~

58 (8) For the services of any crime laboratory facility operated by a local
59 government or group of local governments, the district or superior court

1 judge shall, upon conviction, order payment of the sum of six hundred
 2 dollars (\$600.00) to be remitted to the general fund of the local
 3 governmental unit that operates the laboratory to be used for law
 4 enforcement purposes. The cost shall be assessed only in cases in which, as
 5 part of the investigation leading to the defendant's conviction, the laboratory
 6 has performed DNA analysis of the crime, test of bodily fluids of the
 7 defendant for the presence of alcohol or controlled substances, or analysis of
 8 any controlled substance possessed by the defendant or the defendant's
 9 agent. The costs shall be assessed only if the court finds that the work
 10 performed at the local government's laboratory is the equivalent of the same
 11 kind of work performed by the State Bureau of Investigation under
 12 subdivision (7) of this subsection. ~~The court may waive or reduce the~~
 13 ~~amount of the payment required by this subdivision upon a finding of just~~
 14 ~~cause to grant such a waiver or reduction.~~

- 15 (9) For the support and services of the State Bureau of Investigation DNA
 16 Database and DNA Databank, the sum of two dollars (\$2.00). This amount
 17 is annually appropriated to the Department of Justice for this purpose.
 18 Notwithstanding the provisions of subsection (e) of this section, this cost
 19 does not apply to infractions.

20 "...."

21 **SECTION 16.6.(c)** This section becomes effective July 1, 2012, and applies to fees
 22 waived on or after that date.

23 **COLLECTION OF WORTHLESS CHECK FUNDS**

24 **SECTION 16.7.** Section 15.4 of S.L. 2011-145 reads as rewritten:

25 "**SECTION 15.4.** Notwithstanding the provisions of G.S. 7A-308(c), the Judicial
 26 Department may use any balance remaining in the Collection of Worthless Checks Fund on
 27 ~~June 30, 2011, June 30, 2012,~~ for the purchase or repair of office or information technology
 28 ~~equipment during the 2011-2012 fiscal year. 2012-2013 fiscal year.~~ Prior to using any funds
 29 under this section, the Judicial Department shall report to the Joint Legislative Commission on
 30 ~~Governmental Operations and Operations,~~ the Chairs of the House of Representatives and
 31 ~~Senate Appropriations Subcommittees on Justice and Public Safety-Safety, and the Office of~~
 32 ~~State Budget and Management~~ on the equipment to be purchased or repaired and the reasons
 33 for the purchases."
 34

35 **OFFICE OF INDIGENT DEFENSE SERVICES EXPANSION FUNDS**

36 **SECTION 16.8.** Section 15.16(a) of S.L. 2011-145 reads as rewritten:

37 "**SECTION 15.16.(a)** The Judicial Department, Office of Indigent Defense Services, may
 38 use up to the sum of two million one hundred fifty thousand dollars (\$2,150,000) in
 39 appropriated funds during the 2011-2012 fiscal year for the expansion of existing offices
 40 currently providing legal services to the indigent population under the oversight of the Office of
 41 Indigent Defense Services, for the creation of new public defender offices within existing
 42 public defender programs, or for the establishment of regional public defender programs.
 43 Notwithstanding the defender districts established by G.S. 7A-498.7, the Office of Indigent
 44 Defense Services may use a portion of these funds to create positions within existing public
 45 defender programs to handle cases in adjacent counties or districts. These funds may be used to
 46 create up to 50 new attorney positions and 25 new support staff positions during the ~~2011-2012~~
 47 ~~fiscal year 2011-2013 biennium~~ and for the salaries, benefits, equipment, and related expenses
 48 for these positions in both years of the biennium. Positions creation will be staggered across the
 49 two years of the biennium. Prior to using funds for this purpose, the Office of Indigent Defense
 50 Services shall report to the Chairs of the House of Representatives and the Senate
 51 Appropriations Subcommittees on Justice and Public Safety on the proposed expansion."
 52

53 **OFFICE OF INDIGENT DEFENSE SERVICES/STATE MATCH FOR GRANTS**

54 **SECTION 16.9.** Notwithstanding G.S. 143C-6-9, the Office of Indigent Defense

55 Services may use the sum of up to fifty thousand dollars (\$50,000) from funds available to
 56 provide the State matching funds needed to receive grant funds. Prior to using funds for this
 57 purpose, the Office shall report to the Chairs of the House of Representatives and Senate
 58

1 Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative
2 Commission on Governmental Operations on the grants to be matched using these funds.
3

4 **PART XVII. OFFICE OF THE STATE AUDITOR**

6 **EXEMPT OCCUPATIONAL LICENSING BOARDS FROM PAYING FOR AUDITS 7 UNDER CERTAIN CIRCUMSTANCES**

8 **SECTION 17.1.** G.S. 93B-4 reads as rewritten:

9 **"§ 93B-4. Audit of Occupational Licensing Boards; payment of costs.**

10 (a) The State Auditor shall audit occupational licensing boards from time to time to
11 ensure their proper operation. The books, records, and operations of each occupational
12 licensing board shall be subject to the oversight of the State Auditor pursuant to Article 5A of
13 Chapter 147 of the General Statutes. In accordance with G.S. 147-64.7(b), the State Auditor
14 may contract with independent professionals to meet the requirements of this section.

15 ~~The cost of all audits shall be paid from funds of the occupational licensing board audited.~~

16 (b) Each occupational licensing board with a budget of at least fifty thousand dollars
17 (\$50,000) shall conduct an annual financial audit of its operations and provide a copy to the
18 State Auditor."
19

20 **SPECIAL RESPONSIBILITY CONSTITUENT INSTITUTIONS – AUDIT**

21 **SECTION 17.2.** G.S. 116-30.8 reads as rewritten:

22 **"§ 116-30.8. Special responsibility constituent institutions: annual audit by State Auditor 23 or certified public accountant.**

24 Each special responsibility constituent institution shall be audited annually. The Chancellor
25 of the special responsibility constituent institution may use State funds to contract with the
26 State Auditor or with a certified public accountant to perform the audit. The contract for audit
27 services may be for up to three years in duration. The audit shall be provided to the Chancellor
28 and Board of Trustees of the special responsibility institution, the Board of Governors of The
29 University of North Carolina, and the State Auditor. The audit shall also be included in the
30 State's Comprehensive Annual Financial Report (CAFR).

31 The Board of Governors of The University of North Carolina shall ensure that all special
32 responsibility constituent institutions are audited in accordance with this section."
33

34 **AUDITOR PUBLISH COST OF AUDITS**

35 **SECTION 17.3.** Article 5A of Chapter 147 of the General Statutes is amended by
36 adding a new section to read:

37 **"§ 147-64.6C. Cost of audit report published.**

38 Each audit report shall itemize the number of staff hours used in conducting the audit and in
39 preparation of the audit report and the total cost of conducting the audit and preparing the audit
40 report."
41

42 **PART XVIII. DEPARTMENT OF CULTURAL RESOURCES**

43 **ROANOKE ISLAND COMMISSION REPORTING REQUIREMENT**

44 **SECTION 18.1.** G.S. 143B-131.4 reads as rewritten:

45 **"§ 143B-131.4. Commission reports.**

46 Before July 1, 1995, the Commission shall submit to the General Assembly a
47 comprehensive report incorporating specific recommendations of the Commission for
48 development and promotion of the Elizabeth II State Historic Site and Visitor Center. After the
49 initial report, the Commission shall submit a quarterly report to the General Assembly within
50 30 days of the convening of each Regular Session of the General Assembly. Chairs of the
51 House Appropriations Subcommittee on General Government and the Chairs of the Senate
52 Appropriations Committee on General Government and Information Technology and to the
53 Fiscal Research Division of the General Assembly. The report shall include:

- 54 (1) A summary of actions taken by the Commission consistent with the powers
55 and duties of the Commission set forth in G.S. 143B-131.2.
- 56 (2) Recommendations for legislation and administrative action to promote and
57 develop the Elizabeth II State Historic Site and Visitor Center.
- 58 (3) An accounting of funds received and expended."
59

1
2 **MODIFY STATE HISTORIC SITES SPECIAL FUND TO INCLUDE STATE**
3 **HISTORY MUSEUMS**

4 **SECTION 18.2.** G.S. 121-7.7 reads as rewritten:

5 "**§ 121-7.7. State Historic Sites and Museums special fund.**

6 (a) Fund. – The State ~~Historic Sites and Museums~~ Fund is created as a special,
7 interest-bearing revenue fund in the Division of State Historic ~~Sites~~ ~~Sites and the Division of~~
8 ~~State History Museums~~. The Fund consists of all receipts derived from the lease or rental of
9 property or facilities, disposition of structures or products of the land, ~~private donations~~, and
10 admissions and fees collected at the State Historic ~~Sites~~ ~~Sites~~, ~~State History Museums~~, and
11 ~~Maritime Museums~~. The revenues in the Fund may be used only for the operation,
12 interpretation, maintenance, preservation, development, and expansion of the individual State
13 Historic ~~Site~~ ~~Site~~, ~~State History Museum~~, and ~~Maritime Museum~~ where the receipts are
14 generated. The respective Division and the staff from each State Historic ~~Site~~ ~~Site~~, ~~State History~~
15 ~~Museum~~, and ~~Maritime Museum~~ will determine how the funds will be used at that Historic
16 ~~Site~~ ~~Site~~, ~~State History Museum~~, and ~~Maritime Museum~~.

17 (b) Application. – This section applies to the individual State Historic Sites ~~and State~~
18 ~~History and Maritime Museums~~ owned by or under the control of the Division of State Historic
19 ~~Sites~~ ~~Sites and the Division of State History Museums~~, with the exception of the Bentonville
20 Battlefield State Historic ~~Site~~ ~~Site~~ and the ~~North Carolina Transportation Museum~~. The
21 Bentonville Battlefield State Historic Site is subject to G.S. 121-7.5. ~~The North Carolina~~
22 ~~Transportation Museum is subject to G.S. 121-7.6.~~

23 (c) Reports. – The Department of Cultural Resources must submit to the Joint
24 Legislative Commission on Governmental Operations, the House of Representatives and
25 Senate Appropriations Subcommittees on General Government, and the Fiscal Research
26 Division by September 30 of each year a report on the Fund that includes the source and
27 amounts of all funds credited to the Fund and the purpose and amount of all expenditures from
28 the Fund during the prior fiscal year."
29

30 **REQUIRE DEPARTMENT OF CULTURAL RESOURCES TO DEVELOP A**
31 **FIVE-YEAR PLAN FOR CERTAIN HISTORIC SITES**

32 **SECTION 18.3.** The Department of Cultural Resources shall develop
33 comprehensive five-year plans for the Tryon Palace Historic Sites and Gardens, the Roanoke
34 Island Commission, and the North Carolina Transportation Museum. The plans shall describe
35 in detail revenue and expenditure projections, proposed reductions in scope or expenditures,
36 and each site's plans to further develop non-State sources of funding in accordance with the
37 reductions in appropriations implemented in S.L. 2011-145, including the feasibility of
38 privatization. The Department shall submit its report to the Chairs of the House Appropriations
39 Subcommittee on General Government and the Chairs of the Senate Appropriations Committee
40 on General Government and Information Technology by February 1, 2013.

41
42 **PART XIX. GENERAL ASSEMBLY**

43
44 **PROGRAM EVALUATION DIVISION TO STUDY THE DUTIES AND SERVICES OF**
45 **THE NORTH CAROLINA HUMAN RELATIONS COMMISSION AND THE**
46 **CIVIL RIGHTS DIVISION OF THE OFFICE OF ADMINISTRATIVE HEARINGS**

47 **SECTION 19.1.** Section 20.2 of S.L. 2011-145, as amended by Section 45(b) of
48 S.L. 2011-391, reads as rewritten:

49 "**SECTION 20.2.(a)** ~~The Legislative Research Commission is authorized to~~
50 ~~Program Evaluation Division shall~~ study the duties and services of the North Carolina Human Relations
51 Commission and the Civil Rights Division of the Office of Administrative Hearings to
52 determine whether there is unnecessary overlap and duplication of services and recommend the
53 placement of the Commission and Division in the appropriate agency or agencies.

54 "**SECTION 20.2.(b)** ~~The Legislative Research Commission may make an interim report~~
55 ~~by May 1, 2012, to the Chairs of the House Appropriations Subcommittee on General~~
56 ~~Government and the Chairs of the Senate Appropriations Committee on General Government~~
57 ~~and Information Technology.~~ Program Evaluation Division shall report its findings upon the
58 convening of the 2013 General Assembly.

59 "**SECTION 20.2.(c)** This section is effective when it becomes law."

PART XX. DEPARTMENT OF INSURANCE**DOI TO STUDY FIRE PROTECTION GRANT FUND**

SECTION 20.1.(a) The Department of Insurance shall study how the fund distribution method for the State Fire Protection Grant Fund could more fully meet the requirement of G.S. 58-85A-1(b) that the distribution method be equitable and uniform. The study shall consider the following factors, as well as any other factors the Department finds relevant:

- (1) Whether the basis for determining the amount of compensation due a local fire district or political subdivision for providing local fire protection to State-owned buildings and their contents actually reflects the cost to the local fire district or political subdivision of providing the fire protection services.
- (2) How the division in funds among properties supported by the General Fund, properties supported by the Highway Fund, and properties supported by The University of North Carolina receipts required by G.S. 58-85A-1(c) should be revised to support fire protection services provided to State-owned properties not receiving support from those Funds or receipts.

SECTION 20.1.(b) The Department shall report its findings and any recommendations for revision of the fund distribution method to the House and Senate Appropriations Subcommittees on General Government and to the Fiscal Research Division on or before October 1, 2012.

FUNDING OF BUILDING CODE REVIEWS FOR STATE BUILDINGS

SECTION 20.3. Section 7 of Session Law 2009-474 reads as rewritten:

"SECTION 7. The Department of Insurance shall transfer to the Department of Administration four building code review positions selected by the Department of Administration for the purpose of assisting the Department of Administration in administering G.S. 143-341(3) and G.S. 143-139(e). These positions shall be supported by the Insurance Regulatory Fund at one hundred percent (100%) of the full budgeted amount for each position ~~from fiscal year 2009-2010 through fiscal year 2011-2012. Beginning fiscal year 2012-2013, the State Treasurer, as custodian of the State Property Fire Insurance Fund, shall support those positions out of the State Property Fire Insurance Fund position.~~"

DOI TO ASSESS VOLUNTEER SAFETY WORKERS COMPENSATION FUND

SECTION 20.4. The Department of Insurance, from funds available to it, shall contract with an independent actuary to assess the Volunteer Safety Workers Compensation Fund. The assessment shall include the following components:

- (1) Recommendations as to the level of funding required to ensure that the Fund can meet its financial obligations.
- (2) The level and duration of funding required for the Fund to become self-sufficient in the future.
- (3) The nature of the claims paid by the Fund and any claims-related trends that impact the health of the Fund.
- (4) Recommendations as to the appropriate level of premiums to be paid by members or their departments.
- (5) A projection of revenues to the Fund from sources other than State funding.
- (6) A comparison of the projected timing and risk of the cash flow from investments with the cash flow needed to pay claims.

No later than October 1, 2012, the Department shall report the independent actuary's assessment and findings and also provide a comparison of the premiums paid into the Fund and premiums paid by municipal fire departments for their employees' workers compensation insurance to the Chairs of the House of Representatives and Senate Appropriations Committees, the Chairs of the House of Representatives and Senate Appropriations Subcommittees on General Government, and the Fiscal Research Division.

SET REGULATORY CHARGE

1 **SECTION 20.5.(a)** The percentage rate to be used in calculating the insurance
2 regulatory charge under G.S. 58-6-25 is six percent (6%) for the 2012 calendar year.

3 **SECTION 20.5.(b)** This section is effective when it becomes law.
4

5 **PART XXII. OFFICE OF STATE BUDGET AND MANAGEMENT**

6 **AUTHORIZATION TO SPEND FUNDS FOR CERTAIN PURPOSES**

7 **SECTION 22.2.** Notwithstanding G.S. 143C-6-5, the Office of State Budget and
8 Management may use funds within Budget Code 13005 to do the following:
9

- 10 (1) Reclassify one or more vacant positions to Senior Economists to provide
11 support in developing Medicaid projections and monitoring Medicaid
12 expenditures.
- 13 (2) Support Integrated Budget Information System ongoing operations and
14 maintenance costs.
15

16 **PART XXII-A. DEPARTMENT OF REVENUE**

17 **PROSECUTION OF CASES INVOLVING TAX FRAUD**

18 **SECTION 22A.1.** The Department of Revenue and the Department of Justice shall
19 enter into an agreement through which the Department of Revenue shall provide funding for an
20 Attorney IV to be employed by the Department of Justice. This position shall be assigned on a
21 full-time basis to assist the Department of Revenue in the investigation and prosecution of
22 cases involving tax fraud.
23

24 The agreement shall specify that the attorney shall report periodically to the
25 Secretary of Revenue on his or her work time devoted to prosecution of tax fraud cases rather
26 than to other work within the Department of Justice.
27

28 **PART XXIII. STATE BOARD OF ELECTIONS**

29 **HAVA FUNDS/DISABILITY ACCESS**

30 **SECTION 23.1.(a)** The State Board of Elections shall not expend any Help
31 America Vote Funds (HAVA) Title II Funds for the 2011-2012 fiscal year and, unless
32 prohibited by federal law, shall retain those funds until Maintenance of Effort funds are
33 appropriated, except that voting accessibility funds granted by the Secretary of Health and
34 Human Services under Section 261 of HAVA may be applied for and expended by the State
35 Board of Elections to improve voting accessibility for the disabled.
36

37 **SECTION 23.1.(b)** This section is effective when it becomes law.
38

39 **HAVA FUNDS/STATE SUPPORT OF COUNTY BDS OF ELECTIONS**

40 **SECTION 23.2.(a)** Effective July 1, 2013, G.S. 163-82.28 reads as rewritten:

41 **"§ 163-82.28. The HAVA Election Fund.**

42 There is established a special fund to be known as the Election Fund. All funds received for
43 implementation of the Help America Vote Act of 2002, Public Law 107-252, shall be deposited
44 in that fund. The State Board of Elections shall use funds in the Election Fund only to
45 implement HAVA. No HAVA funds may be granted to or used by counties for the operation of
46 elections or for expenses which by this Chapter are borne by the counties, except that HAVA
47 funds may be used for local infrastructure of SEIMS (State Elections Information Management
48 System), which is necessary for the State to administer the elections. The State Board of
49 Elections shall annually report to the House and Senate Committees on Appropriations, to the
50 Fiscal Research Division, and to the Joint Legislative Commission on Governmental
51 Operations on implementation of this section."

52 **SECTION 23.2.(b)** Effective July 1, 2013, Article 4 of Chapter 163 of the General
53 Statutes is amended by adding a new section to read:

54 **"§ 163-37.1. No State funds for county election expenses.**

55 No State funds shall be appropriated to counties, or allocated to them by the State Board of
56 Elections, for expenses of the county boards of elections, except that State funds may be used
57 for local infrastructure of SEIMS (State Elections Information Management System), which is
58 necessary for the State to administer the elections. The State Board of Elections shall annually
59 report to the House and Senate Committees on Appropriations, to the Fiscal Research Division,

1 and to the Joint Legislative Commission on Governmental Operations on implementation of
2 this section."

4 **ELECTION SYSTEM MAINTENANCE CONTRACTS**

5 **SECTION 23.3.(a)** G.S. 163-165.9(b)(2) reads as rewritten:

6 "(b) After the acquisition of any voting system, the county board of elections shall
7 comply with any requirements of the State Board of Elections regarding training and support of
8 the voting system by completing all of the following:

9 ...
10 (2) The county board of elections shall annually maintain software license and
11 maintenance agreements necessary to maintain the warranty of its voting
12 system. A county board of elections may employ qualified personnel to
13 maintain a voting system in lieu of entering into maintenance agreements
14 necessary to maintain the warranty of its voting system. State Board of
15 Elections is not required to provide routine maintenance to any county board
16 of elections that does not maintain the warranty of its voting system. If the
17 State Board of Elections provides any maintenance to a county that has not
18 maintained the warranty of its voting system, the county shall reimburse the
19 State for the cost. The State Board of Elections shall annually report to the
20 House and Senate Committees on Appropriations, to the Fiscal Research
21 Division, and to the Joint Legislative Commission on Governmental
22 Operations on implementation of this subdivision. If requested by the county
23 board of elections, the State Board of Elections may enter into contracts on
24 behalf of that county under this subdivision. Any contract entered into by a
25 county under this subdivision is not effective unless approved by the State
26 Board of Elections. Neither a county nor the State Board of Elections shall
27 enter into any contract with any vendor for software license and maintenance
28 agreements unless the vendor agrees to (i) operate a training program for
29 qualification of county personnel under this subsection with training offered
30 within the State of North Carolina and (ii) not dishonor warranties merely
31 because the county is employing qualified personnel to maintain the voting
32 system as long as the county:

- 33 a. Pays the costs of the annual software licensing agreement for that
34 county.
35 b. Ensures that equipment (i) remains in full compliance with State
36 certification requirements and (ii) remains in stock and supply
37 available to the county for up to five years after the vendor
38 discontinues distribution or sale of the equipment.
39 c. Maintains a tracking record to record and timely report all hardware
40 issues and all repairs and provides those records for review by the
41 vendor and by the State Board of Elections.
42 d. Provides that only parts provided by the vendor would be used to
43 repair the vendor's equipment, contingent on (i) the county being able
44 to purchase necessary parts in a timely manner from the vendor and
45 (ii) the vendor providing the equipment at least at the lowest price at
46 which it sells the equipment to any other customer in the United
47 States.
48 e. Accepts financial responsibility for expenses related to voting
49 equipment failure during an election if the failure is caused solely by
50 work of the county technician."

51 **SECTION 23.3.(b)** The State Board of Elections shall use funds appropriated for
52 Help America Vote Act (HAVA) Title II maintenance of effort to pay for the training of county
53 technicians under G.S. 163-165.9(b)(2) as amended by this section.

54 **SECTION 23.3.(c)** In administering G.S. 163-165.9(b)(2) as amended by this
55 section, the State Board of Elections shall work with all county boards of election interested in
56 obtaining certification for voting equipment maintenance technicians. The State Board of
57 Elections shall work with the county boards of elections to develop a consensus estimate of the
58 percentage of hardware maintenance previously provided by the vendor that will continue to be
59 provided by the vendor rather than by the certified county technicians. In any contract entered

1 into by either a county or the State Board of Elections on behalf of counties for voter
2 equipment maintenance that includes certification of county technicians, the per machine price
3 paid for hardware maintenance agreements shall not exceed the consensus percentage
4 multiplied by the price per machine paid to the vendor for hardware maintenance agreements
5 for the 2011-2012 fiscal year.

6 **SBOE MOE VARIANCE**

7 **SECTION 23.4.(a)** In the event that funds appropriated to the State Board of
8 Elections (SBOE) for Maintenance of Effort (MOE) are insufficient, SBOE shall transfer funds
9 from their Administration Fund Code (1100) to the Fund Code and Cost Center for MOE to
10 expend on MOE activities to make up the difference.

11 **SECTION 23.4.(b)** In the event that funds appropriated to the SBOE for MOE are
12 in excess of the required amount, SBOE shall retain the excess amount and revert it to the
13 General Fund at the end of the 2012-2013 fiscal year.

14 **SBOE SUPPLEMENTAL REPORT ON VOTER-OWNED ELECTIONS ACT**

15 **SECTION 23.5.** The State Board of Elections shall not later than July 25, 2012,
16 provide to the Joint Legislative Commission on Governmental Operations and to the Fiscal
17 Research Division a supplemental report on the administration and implementation of Article
18 22J of Chapter 163 of the General Statutes, the Voter-Owned Elections Act, including all
19 certified candidates for the 2012 General Election and the amounts that have been and will be
20 distributed to each such candidate.

21 **PART XXIV. DEPARTMENT OF TRANSPORTATION**

22 **CASH FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATIONS**

23 **SECTION 24.1.(a)** Section 28.1 of S.L. 2011-145 is repealed.

24 **SECTION 24.1.(b)** The General Assembly authorizes and certifies anticipated
25 revenues for the Highway Fund as follows:

| | |
|------------------------------|--------------------|
| 26 For Fiscal Year 2013-2014 | \$ 2,162.1 million |
| 27 For Fiscal Year 2014-2015 | \$ 2,281.8 million |
| 28 For Fiscal Year 2015-2016 | \$ 2,407.2 million |
| 29 For Fiscal Year 2016-2017 | \$ 2,523.8 million |

30 **SECTION 24.1.(c)** The General Assembly authorizes and certifies anticipated
31 revenues for the Highway Trust Fund as follows:

| | |
|------------------------------|--------------------|
| 32 For Fiscal Year 2013-2014 | \$ 1,120.0 million |
| 33 For Fiscal Year 2014-2015 | \$ 1,195.5 million |
| 34 For Fiscal Year 2015-2016 | \$ 1,284.0 million |
| 35 For Fiscal Year 2016-2017 | \$ 1,336.9 million |

36 **FURTHER PRIVATIZATION OF PRE-CONSTRUCTION ACTIVITIES**

37 **SECTION 24.2.** For fiscal year 2013-2014, the Department of Transportation shall
38 increase the outsourcing of preliminary engineering projects from fifty percent (50%) of the
39 total funds in the annual work plan, as required by Section 28.9.(3) of S.L. 2011-145, to sixty
40 percent (60%) of the total funds in the annual work plan.

41 **FUNDS FROM INSPECTION PROGRAM ACCOUNT FOR OTHER HIGHWAY 42 FUND USES**

43 **SECTION 24.3.** Notwithstanding G.S. 20-183.7(d), the sum of eleven million
44 dollars (\$11,000,000) from the Inspection Program Account within the Highway Fund, as
45 established under G.S. 20-183.7(d), is appropriated and allocated as shown in this act.

46 **CLARIFY USE OF CREDIT RESERVE BALANCE IN HIGHWAY FUND**

47 **SECTION 24.6.** G.S. 136-44.2 reads as rewritten:

48 **"§ 136-44.2. Budget and appropriations.**

49 (a) The Director of the Budget shall include in the "Current Operations Appropriations
50 Act" an enumeration of the purposes or objects of the proposed expenditures for each of the
51 construction and maintenance programs for that budget period for the State primary, secondary,
52 State parks road systems, and other transportation systems. The State primary system shall

1 include all portions of the State highway system located both inside and outside municipal
2 corporate limits that are designated by N.C., U.S. or Interstate numbers. The State secondary
3 system shall include all of the State highway system located both inside and outside municipal
4 corporate limits that is not a part of the State primary system. The State parks system shall
5 include all State parks roads and parking lots that are not also part of the State highway system.
6 The transportation systems shall include State-maintained, nonhighway modes of transportation
7 as well.

8 (b) All construction and maintenance programs for which appropriations are requested
9 shall be enumerated separately in the budget. Programs that are entirely State funded shall be
10 listed separately from those programs involving the use of federal-aid funds. Proposed
11 appropriations of State matching funds for each of the federal-aid construction programs shall
12 be enumerated separately as well as the federal-aid funds anticipated for each program in order
13 that the total construction requirements for each program may be provided for in the budget.
14 Also, proposed State matching funds for the highway planning and research program shall be
15 included separately along with the anticipated federal-aid funds for that purpose.

16 (c) Other program categories for which appropriations are requested, such as, but not
17 limited to, maintenance, channelization and traffic control, bridge maintenance, public service
18 and access road construction, transportation projects and systems, and ferry operations shall be
19 enumerated in the budget.

20 (d) The Department of Transportation shall have all powers necessary to comply fully
21 with provisions of present and future federal-aid acts. For purposes of this section, "federally
22 eligible construction project" means any construction project except secondary road projects
23 developed pursuant to G.S. 136-44.7 and 136-44.8 eligible for federal funds under any
24 federal-aid act, whether or not federal funds are actually available.

25 (e) The "Current Operations Appropriations Act" shall also contain the proposed
26 appropriations of State funds for use in each county for maintenance and construction of
27 secondary roads, to be allocated in accordance with G.S. 136-44.5 and 136-44.6. State funds
28 appropriated for secondary roads shall not be transferred nor used except for the construction
29 and maintenance of secondary roads in the county for which they are allocated pursuant to
30 G.S. 136-44.5 and 136-44.6.

31 (f) If the unreserved credit balance in the Highway Fund on the last day of a fiscal year
32 is greater than the amount estimated for that date in the Current Operations Appropriations Act
33 for the following fiscal year, the excess shall be used in accordance with this ~~paragraph-~~
34 subsection. The Director of the Budget ~~may~~shall allocate ~~part or all of the excess among~~
35 reserves to a reserve (i) for access and public roads, for unforeseen events requiring prompt
36 action, roads or (ii) for other urgent needs. The amount not allocated to any of these reserves by
37 the Director of the Budget shall be credited to a reserve for maintenance. The Board of
38 Transportation shall report monthly to the Joint Legislative Transportation Oversight
39 Committee and the Fiscal Research Division on the use of funds in the maintenance reserve.
40 The use of this reserve shall be subject to the following:

41 (1) Restrictions on use. – No more than five million dollars (\$5,000,000) from
42 this reserve may be spent on a single project. Funds from this reserve being
43 used for an "other urgent need" project cannot be used for administrative
44 costs, information technology costs, or economic development.

45 (2) Approval. – The Department of Transportation shall submit for approval to
46 the Director of the Budget all expenditures from the reserve established
47 under this subsection.

48 (3) Reporting. – At least five days, not including State holidays or weekend
49 days, prior to submitting an expenditure request to the Director of the
50 Budget under subdivision (2) of this subsection, the Department of
51 Transportation shall submit a report on the expenditure request to the Fiscal
52 Research Division and to the members of the House Appropriations
53 Subcommittee on Transportation and the Senate Appropriations Committee
54 on Department of Transportation. Such report shall be certified by the chief
55 financial officer of the Department of Transportation and shall include (i) a
56 project description, (ii) whether the project is for access and public roads or
57 for other urgent needs, (iii) a justification of the project, (iv) the total project
58 cost, (v) the amount of funding for the project coming from the reserve, and
59 (vi) other funding sources for the project.

(4) Carryforward. – If on the last day of the fiscal year the balance in the reserve established by this subsection is greater than five million dollars (\$5,000,000), then the Director of the Budget shall transfer the amount in excess of that sum to the Reserve for General Maintenance in the Highway Fund.

(g) The Department of Transportation may provide for costs incurred or accrued for traffic control measures to be taken by the Department at major events which involve a high degree of traffic concentration on State highways, and which cannot be funded from regular budgeted items. This authorization applies only to events which are expected to generate 30,000 vehicles or more per day. The Department of Transportation shall provide for this funding by allocating and reserving up to one hundred thousand dollars (\$100,000) before any other allocations from the appropriations for State maintenance for primary, secondary, and urban road systems are made, based upon the same proportion as is appropriated to each system."

ADJUST TURNPIKE APPROPRIATIONS

SECTION 24.7.(a) Any funds appropriated to the North Carolina Turnpike Authority under G.S. 136-176(b2) to cover debt service or related financing costs for the Mid-Currituck Bridge project and that remain unencumbered at the end of fiscal year 2011-2012 are hereby transferred back to the Highway Trust Fund to be appropriated and allocated as shown in this act.

SECTION 24.7.(b) Notwithstanding G.S. 136-176(b2), the funds appropriated in G.S. 136-176(b2) to the Mid-Currituck Bridge and Garden Parkway projects for fiscal year 2012-2013 are hereby transferred to the Mobility Fund.

SECTION 24.7.(c) Effective July 1, 2013, G.S. 136-176(b2), as amended, reads as rewritten:

"(b2) **(Effective July 1, 2013)** There is annually appropriated to the North Carolina Turnpike Authority from the Highway Trust Fund the sum of ~~one hundred twelve million dollars (\$112,000,000)~~ eighty-one million five hundred thousand dollars (\$81,500,000). Of the amount allocated by this subsection, twenty-five million dollars (\$25,000,000) shall be used to pay debt service or related financing costs and expenses on revenue bonds or notes issued for the construction of the Triangle Expressway, twenty-four million dollars (\$24,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Monroe Connector/Bypass, ~~twenty-eight million dollars (\$28,000,000)~~ fifteen million dollars (\$15,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Mid-Currituck Bridge, and ~~thirty-five million dollars (\$35,000,000)~~ seventeen million five hundred thousand dollars (\$17,500,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Garden Parkway. The amounts appropriated to the Authority pursuant to this subsection shall be used by the Authority to pay debt service or related financing costs and expenses on revenue bonds or notes issued by the Authority to finance the costs of one or more Turnpike Projects, to refund such bonds or notes, or to fund debt service reserves, operating reserves, and similar reserves in connection therewith. The appropriations established by this subsection constitute an agreement by the State to pay the funds appropriated hereby to the Authority within the meaning of G.S. 159-81(4). Notwithstanding the foregoing, it is the intention of the General Assembly that the enactment of this provision and the issuance of bonds or notes by the Authority in reliance thereon shall not in any manner constitute a pledge of the faith and credit and taxing power of the State, and nothing contained herein shall prohibit the General Assembly from amending the appropriations made in this subsection at any time to decrease or eliminate the amount annually appropriated to the Authority. Funds transferred from the Highway Trust Fund to the Authority pursuant to this subsection are not subject to the equity formula in G.S. 136-17.2A."

CODIFY MOBILITY FUND FORMULA DEVELOPED BY DEPARTMENT OF TRANSPORTATION

SECTION 24.8.(a) G.S. 136-188 reads as rewritten:

"§ 136-188. **Use of North Carolina Mobility Fund.**

(a) The Department of Transportation shall use the Mobility Fund to fund transportation projects, selected by the Department, of statewide and regional significance that

1 relieve congestion and enhance mobility across all modes of transportation. ~~The Department of~~
 2 ~~Transportation shall establish project selection criteria based on the provisions of this Article.~~

3 (b) ~~The~~ Notwithstanding subsections (c) and (d) of this section, the initial project
 4 funded from the Mobility Fund shall be the widening and improvement of Interstate 85 north of
 5 the Yadkin River Bridge.

6 (c) To be eligible for funding from the Mobility Fund, a project must meet the
 7 following requirements:

8 (1) The project must be on statewide or Regional tier facilities.

9 (2) The project must be ready to have funds obligated for construction within
 10 five years.

11 (3) The project must be (i) consistent with MPO/RPO transportation planning
 12 efforts, (ii) included in an adopted transportation plan, and (iii) found to be
 13 consistent with local land-use plans, where available. As used in this
 14 subdivision, "MPO" means metropolitan planning organization and "RPO"
 15 means rural transportation planning organization.

16 (4) The project must be in a conforming transportation plan if the project is in a
 17 non-attainment or maintenance area.

18 (5) Only the project's capital costs, including right-of-way acquisition and
 19 construction, may be funded. Maintenance, operation, and planning costs
 20 may not be funded from the Mobility Fund.

21 (6) There is no minimum project capital cost as a threshold for funding a
 22 project.

23 (d) Eligible projects shall be scored and ranked, with the highest scored projects
 24 receiving funding priority. Ranking scores shall be determined according to the following
 25 formula:

26 (1) Mobility benefit-cost. – Eighty percent (80%) of the ranking score shall be
 27 the estimated travel time savings in vehicle hours that the project will
 28 provide over 30 years divided by the cost of the project to the Mobility
 29 Fund.

30 (2) Multimodal/intermodal. – Twenty percent (20%) of the ranking score shall
 31 be based on whether the project provides an improvement to more than one
 32 mode of transportation and what types of other modes of transportation are
 33 involved in the project. Using a scale from zero to 100, the Department of
 34 Transportation shall provide for the assignment of points under this
 35 subdivision. The Department's determination of a point system under this
 36 subdivision shall not be subject to rulemaking under Chapter 150B of the
 37 General Statutes."

38 **SECTION 24.8.(b)** Section 28.33(c) of S.L. 2011-145 is repealed.

40 **CIVIL PENALTIES TO BE TREATED AS RECEIPTS FOR TRANSFER TO CIVIL** 41 **PENALTY AND FORFEITURE FUND**

42 **SECTION 24.9.** The clear proceeds of all civil penalties, civil forfeitures, and civil
 43 fines collected by the Department of Transportation for transfer to the Civil Penalty and
 44 Forfeiture Fund and which are currently recorded as revenue in the Highway Fund (Budget
 45 Code 84210) shall be eliminated from the Estimated Revenue for the Highway Fund. The
 46 corresponding Highway Fund appropriation in Fund 150889 shall also be eliminated.

47 Rather than recording the proceeds as revenue, the clear proceeds of all civil
 48 penalties, civil forfeitures, and civil fines collected by the Department of Transportation for
 49 transfer to the Civil Penalty and Forfeiture Fund shall be recorded as receipts and budgeted in a
 50 totally receipt-supported fund center (150889) in the Highway Fund (Budget Code 84210) for
 51 transfer to the Civil Penalty and Forfeiture Fund.

53 **POSITIONS IN SUPPORT OF THE COMBINED MOTOR VEHICLE** 54 **REGISTRATION AND PROPERTY TAX COLLECTION SYSTEM**

55 **SECTION 24.10.(a)** Upon request from the Department of Transportation and
 56 notwithstanding any other provision of law to the contrary, the Office of State Budget and
 57 Management may authorize the creation of time-limited, full-time equivalent positions within
 58 the Department of Transportation and its Division of Motor Vehicles in excess of the positions
 59 authorized by this act for the sole purposes of implementing and administering the combined

1 motor vehicle registration and property tax collection system, in accordance with the funding
2 authorizations in G.S. 105-330.5 and G.S. 105-330.10. Positions created under this
3 authorization shall terminate no later than June 30, 2014. Following the approval of a request,
4 the Office of State Budget and Management shall direct the transfer of funds from the
5 Combined Motor Vehicle and Registration Account, also known as the Division of Motor
6 Vehicles Taxation Interest Fund for Integrated Computer System, to support personnel and
7 related operating costs for the positions approved under this section.

8 **SECTION 24.10.(b)** Beginning October 1, 2012, the Office of State Budget and
9 Management shall report quarterly on all transfers of funds from the Combined Motor Vehicle
10 and Registration Account (Combined Account) and positions supported by the Combined
11 Account during the 2012-2013 fiscal year to the House Appropriations Subcommittee on
12 Transportation, the Senate Appropriations Committee on Department of Transportation, the
13 Joint Legislative Transportation Oversight Committee, and the Fiscal Research Division. The
14 report shall include, at a minimum, the following:

- 15 (1) A summary of activities funded by the Combined Account to date.
- 16 (2) Amounts transferred from the Combined Account and expended per activity.
- 17 (3) A detailed listing of positions funded by receipts to the Combined Account,
18 identifying the position number, title, effective date and duration, cost,
19 functions performed, and organizational unit to which the position is
20 assigned.

21 **SECTION 24.10.(c)** No later than May 1, 2013, the Department of Revenue and
22 the Department of Transportation shall jointly report on the status of the Memorandum of
23 Understanding required by G.S. 105-330.11 to the following: the House Appropriations
24 Subcommittee on Transportation, the Senate Appropriations Committee on Department of
25 Transportation, the cochairs of the House Appropriations Committee, the cochairs of the Senate
26 Appropriations/Base Budget Committee, and the Fiscal Research Division. The report shall
27 identify the estimated recurring costs of system administration and proposed administrative
28 fees to support the costs of combined notice generation and collection of registration fees and
29 vehicle property taxes.

30 **REDUCE MOTOR FUEL EXCISE TAX RATE**

31 **SECTION 24.11.** Notwithstanding G.S. 105-449.80(a), for the period July 1, 2012,
32 through June 30, 2013, the motor fuel excise tax rate may not exceed thirty-seven and one-half
33 cents (37 1/2¢) a gallon.

34 **USE OF UNEXPENDED CONTINGENCY FUNDS**

35 **SECTION 24.12.** Notwithstanding any other provision of law and not including
36 the funds appropriated in Section 28.6(2) of S.L. 2011-145 for the 2011-2013 fiscal biennium,
37 the sum of twenty-two million dollars (\$22,000,000) is transferred from the unexpended
38 balance of contingency fund appropriations to the Highway Fund. That sum is appropriated and
39 allocated as shown in this act.

40 **INCREASE GENERAL FUND TRANSFER FROM HIGHWAY FUND**

41 **SECTION 24.13.** Notwithstanding Section 28.27(b) of S.L. 2011-145 or any other
42 provision of that act, as amended, the amount transferred from the Highway Fund to the
43 General Fund under that act is hereby increased by eight million dollars (\$8,000,000),
44 recurring, in fiscal year 2012-2013.

45 **EXEMPT B.S.I.P. SYSTEM FROM INFORMATION TECHNOLOGY HOSTING 46 REQUIREMENT**

47 **SECTION 24.14.** Section 6A.2(f) of S.L. 2011-145, as amended by Section 11(c)
48 of S.L. 2011-391, reads as rewritten:

49 **"SECTION 6A.2.(f)** Information Technology Hosting. – State agencies developing and
50 implementing information technology projects/applications shall use the State infrastructure to
51 host their ~~projects~~ projects, except for the SAP Business System Integration Portal (BSIP)
52 system of the North Carolina Department of Transportation. An exception to this requirement
53 may be granted only if approved by either the State Chief Information Officer on the basis of
54 technology requirements or by the Office of State Budget and Management based on cost
55 savings, subject to consultation with the Joint Legislative Commission on Governmental
56
57
58
59

1 Operations and a report to the Joint Legislative Oversight Committee on Information
2 Technology.

3 Projects/applications currently hosted outside the State infrastructure shall be returned to
4 State infrastructure not later than the end of any current contract.

5 By October 1, 2011, the State Chief Information Officer shall report to the Joint Legislative
6 Oversight Committee on Information Technology regarding projects currently hosted outside
7 State infrastructure and a schedule to return those projects to State infrastructure."
8

9 **PRIORITIZE PAVING OF UNPAVED ROADS THROUGHOUT THE STATE**

10 **SECTION 24.15.** For fiscal year 2012-2013, the Department of Transportation
11 shall expend funds allocated to the paving of unpaved secondary roads for the paving of
12 unpaved secondary roads based on a statewide prioritization. The Department shall pave the
13 eligible unpaved secondary roads that receive the highest priority ranking within this statewide
14 prioritization, notwithstanding the distribution formula in G.S. 136-17.2A or any other funding
15 distribution formula in law. This section applies to funding for the paving of secondary roads
16 from both the Highway Fund and the Highway Trust Fund.
17

18 **APPLY STATE ETHICS ACT TO METROPOLITAN PLANNING ORGANIZATIONS 19 AND RURAL PLANNING ORGANIZATIONS**

20 **SECTION 24.16.(a)** G.S. 136-202 is amended by adding a new subsection to read:
21 "(e) A Metropolitan Planning Organization shall be treated as a board for purposes of
22 Chapter 138A of the General Statutes."

23 **SECTION 24.16.(b)** G.S. 136-211 is amended by adding a new subsection to read:
24 "(e) Ethics Requirements. – A Rural Transportation Planning Organization shall be
25 treated as a board for purposes of Chapter 138A of the General Statutes."

26 **SECTION 24.16.(c)** Members of Metropolitan Planning Organizations and Rural
27 Transportation Planning Organizations shall file an initial Statement of Economic Interest with
28 the State Ethics Commission no later than April 15, 2013. All information provided in the
29 Statement of Economic Interest shall be current as of December 31, 2012. The initial Statement
30 of Economic Interest shall be filed electronically.

31 **SECTION 24.16.(d)** This section becomes effective January 1, 2013.
32

33 **PAYMENT OF DRIVER EDUCATION FEE WHEN GETTING PERMIT; 34 ADDITIONAL FUNDING FOR DRIVER EDUCATION**

35 **SECTION 24.17.(a)** G.S. 20-11 reads as rewritten:

36 "**§ 20-11. Issuance of limited learner's permit and provisional drivers license to person
37 who is less than 18 years old.**

38 ...
39 (j) ~~Duration and Fee.~~Duration. – A limited learner's permit expires on the eighteenth
40 birthday of the permit holder. A limited provisional license expires on the eighteenth birthday
41 of the license holder. A limited learner's permit or limited provisional license issued under this
42 section that expires on a weekend or State holiday shall remain valid through the fifth regular
43 State business day following the date of expiration. A full provisional license expires on the
44 date set under G.S. 20-7(f).

45 (j1) Fees. – The fees for licenses issued under this section are as follows:

46 (1) The fee for a limited learner's permit ~~or~~for an applicant who did not
47 participate in the driver education program established under Article 14 of
48 Chapter 115C of the General Statutes is fifteen dollars (\$15.00).

49 (2) An applicant for a limited learner's permit who did participate in the driver
50 education program established under Article 14 of Chapter 115C of the
51 General Statutes shall be subject to the following fees:
52 a. Fifteen dollars (\$15.00).
53 b. Forty-five dollars (\$45.00), which shall be credited to the costs of
54 administering the driver education program established under Article
55 14 of Chapter 115C of the General Statutes.

56 (3) The fee for a limited provisional license is fifteen dollars (\$15.00).

57 (4) The fee for a full provisional license is the amount set under G.S. 20-7(i).
58

59 "...."

SECTION 24.17.(b) G.S. 115C-216(g) is repealed.

1 **SECTION 24.17.(c)** An applicant for a limited learner's permit who is subject to
 2 G.S. 20-11(j1)(2), as amended by this section, shall be entitled to a credit toward the forty-five
 3 dollar (\$45.00) fee under G.S. 20-11(j1)(2)b., as amended by this section, for any fee
 4 previously paid under G.S. 115C-216(g). An applicant shall provide evidence of having
 5 previously paid a fee for driver education to a local board of education under G.S. 115C-216(g)
 6 at the time of applying for a limited learner's permit.

7 **SECTION 24.17.(d)** G.S. 105-449.125 reads as rewritten:

8 **"§ 105-449.125. Distribution of tax revenue among various funds and accounts.**

9 The Secretary shall allocate the amount of revenue collected under this Article from an
 10 excise tax of one-half cent (1/2¢) a gallon to the following funds and accounts in the fraction
 11 indicated:

| <u>Fund or Account</u> | <u>Amount</u> |
|---------------------------------------|-------------------------|
| Commercial Leaking Petroleum | |
| Underground Storage Tank Cleanup Fund | Nineteen thirty-seconds |
| Noncommercial Leaking Petroleum | |
| Underground Storage Tank Cleanup Fund | Three thirty-seconds |
| Water and Air Quality Account | Five-sixteenths. |

12 The Secretary shall allocate seventy-five percent (75%) of the remaining excise tax revenue
 13 collected under this Article to the Highway Fund and shall allocate twenty-five percent (25%)
 14 to the Highway Trust Fund.

15 The Secretary shall charge a proportionate share of a refund allowed under this Article to
 16 each fund or account to which revenue collected under this Article is credited. The Secretary
 17 shall credit revenue or charge refunds to the appropriate funds or accounts on a monthly basis.

18 Of the funds allocated to the Commercial Leaking Petroleum Underground Storage Tank
 19 Cleanup Fund within a fiscal year under this section, the sum of two million eighty-five
 20 thousand five hundred eighty-five dollars (\$2,085,585) shall be allocated by the Secretary to
 21 the Department of Public Instruction, and those funds are appropriated to the Department of
 22 Public Instruction for the driver education program."

30 CLARIFY FERRY TOLLING

31 **SECTION 24.18.(a)** 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, and ~~to prescribe and shall collect such tolls therefor~~
 36 ~~as may, in the discretion of the Department of Transportation, be expedient tolls, as established~~
 37 ~~by the Board of Transportation, on the ferry routes. The Board of Transportation shall establish~~
 38 ~~tolls for all ferry routes, except for the Ocracoke/Hatteras Ferry and the Knotts Island~~
 39 ~~Ferry routes.~~

40 To accomplish the purpose of this section said Department of Transportation is authorized
 41 to acquire, own, lease, charter or otherwise control all necessary vessels, boats, terminals or
 42 other facilities required for the proper operation of such ferries or to enter into contracts with
 43 persons, firms or corporations for the operation thereof and to pay therefor such reasonable
 44 sums as may in the opinion of said Department of Transportation represent the fair value of the
 45 public service rendered.

46 The Department of Transportation, notwithstanding any other provision of law, may
 47 operate, or contract for the operation of, concessions on the ferries and at ferry facilities to
 48 provide to passengers on the ferries food, drink, and other refreshments, personal comfort
 49 items, and souvenirs publicizing the ferry system."

50 **SECTION 24.18.(b)** Given that (i) under Section 1 of Article II of the North
 51 Carolina Constitution, the General Assembly holds the "legislative power of the State," which
 52 is the power to enact laws, (ii) under Section 1 of Article III of the North Carolina Constitution,
 53 the Governor holds the "executive power of the State," which is the power to carry out rather
 54 than enact laws, (iii) the Governor's Executive Order No. 116 directly conflicts with ferry
 55 tolling required by S.L. 2011-145, and (iv) as written by the Department of Justice in its April
 56 12, 2012, letter to the Honorable Representative Phillip D. Frye, "a direct conflict between a
 57 law enacted by the General Assembly and an executive order issued by the Governor must be
 58 resolved through implementation of the law," the General Assembly, therefore, hereby declares
 59 Executive Order No. 116 an unconstitutional attempt to exercise authority that the Governor

1 does not possess and, as such, the Department of Transportation shall disregard Executive
2 Order No. 116 and shall collect the tolls required by S.L. 2011-145 and this section.
3

4 PUBLIC TRANSPORTATION FUNDING ADJUSTMENTS

5 **SECTION 24.19.(a)** The Regional New Starts & Capital Program within the
6 Public Transportation Division of the Department of Transportation is eliminated. The
7 unexpended balance of funds for this program are reallocated to the Reserve for General
8 Maintenance in the Highway Fund.

9 **SECTION 24.19.(b)** G.S. 136-44.20 is amended by adding a new subsection to
10 read as follows:

11 "**§ 136-44.20. Department of Transportation designated agency to administer and fund**
12 **public transportation programs; authority of political subdivisions.**

13 ...
14 (e) Public transportation appropriations from the Highway Fund shall not be expended
15 on any fixed guideway project in Mecklenburg County."

16 **SECTION 24.19.(c)** G.S. 136-176 is amended by adding a new subsection to read
17 as follows:

18 "**§ 136-176. Creation, revenue sources, and purpose of North Carolina Highway Trust**
19 **Fund.**

20 ...
21 (e) Subject to G.S. 136-17.2A and other funding distribution formulas, funds allocated
22 under subdivisions (1), (3), and (4) of subsection (b) of this section may also be used for fixed
23 guideway projects, including providing matching funds for federal grants for fixed guideway
24 projects."

25 REPEAL PROGRAM EVALUATION DIVISION STUDY OF NORTH CAROLINA 26 RAILROAD COMPANY

27 **SECTION 24.20.** Section 28.12A of S.L. 2011-145, as amended by Section 52 of
28 S.L. 2011-391, is repealed.
29

30 STUDY INTERSTATE 95 TOLLING

31 **SECTION 24.21.(a)** The Department of Transportation shall conduct a
32 comprehensive study of the transportation corridor containing Interstate 95, including, but not
33 limited to, the following:

- 34 (1) The economic impact of tolling the present road on the residents and
35 businesses along the Interstate 95 corridor.
- 36 (2) The impact of tolling the present road on the alternative routes to Interstate
37 95, including expected increased traffic on those routes, any safety issues
38 created by any increased traffic on those routes, and expected travel time
39 delays for drivers using the alternative routes.
- 40 (3) New or existing alternative routes for Interstate 95.
- 41 (4) Options for funding to make critical repairs and lane mile expansions to
42 Interstate 95 without the use of tolls.

43 The Department shall solicit feedback on its various tolling proposals from the local
44 governments and residents along the Interstate 95 corridor.

45 **SECTION 24.21.(b)** The Department of Transportation shall report the results of
46 its study to the 2013 General Assembly by March 1, 2013.

47 **SECTION 24.21.(c)** Notwithstanding G.S. 136-89.198, the Department of
48 Transportation shall not establish or collect tolls on Interstate 95 prior to July 1, 2014.
49

50 PART XXV. SALARIES AND BENEFITS

51 GOVERNOR AND COUNCIL OF STATE

52 **SECTION 25.01.(a)** Section 29.1(a) of S.L. 2011-145 reads as rewritten:

53 "**SECTION 29.1.(a)** Effective for the ~~2011-2013 fiscal biennium~~, 2011-2012 fiscal year,
54 the salary of the Governor set by G.S. 147-11(a) in the amount of one hundred thirty-nine
55 thousand five hundred ninety dollars (\$139,590) annually, payable monthly, shall remain
56 unchanged."
57

58 **SECTION 25.01.(b)** G.S. 147-11(a) reads as rewritten:
59

"(a) The salary of the Governor shall be ~~one hundred thirty nine thousand five hundred ninety dollars (\$139,590)~~ one hundred forty-one thousand two hundred sixty-five dollars (\$141,265) annually, payable monthly."

SECTION 25.01.(c) The prefatory language contained in Section 29.1(b) of S.L. 2011-145 reads as rewritten:

"SECTION 29.1.(b) Effective for the ~~2011-2013 fiscal biennium, 2011-2012 fiscal year,~~ the annual salaries for the members of the Council of State, payable monthly, ~~for the 2011-2013 fiscal biennium shall remain unchanged as follows:~~ are set as follows:".

SECTION 25.01.(d) Effective for the 2012-2013 fiscal year, the annual salaries for members of the Council of State, payable monthly, are set 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 |

NONELECTED DEPARTMENT HEADS

SECTION 25.02.(a) Section 29.2(a) of S.L. 2011-145 reads as rewritten:

"SECTION 29.2.(a) Effective for the ~~2011-2013 fiscal biennium, 2011-2012 fiscal year,~~ the salaries set by G.S. 143B-9, the maximum annual salaries, payable monthly, for the nonelected heads of the principal State departments ~~remain unchanged~~ are set as follows:

| <u>Nonelected Department Heads</u> | <u>Annual Salary</u> |
|--|----------------------|
| Secretary of Administration | \$120,363 |
| Secretary of Cultural Resources | 120,363 |
| Secretary of Commerce | 120,363 |
| Secretary of Environment and Natural Resources | 120,363 |
| Secretary of Health and Human Services | 120,363 |
| Secretary of Public Safety | 120,363 |
| Secretary of Revenue | 120,363 |
| Secretary of Transportation | 120,363". |

SECTION 25.02.(b) Effective July 1, 2012, the maximum annual salaries, payable monthly, for the nonelected heads of the principal State departments are set as follows:

| <u>Nonelected Department Heads</u> | <u>Annual Salary</u> |
|--|----------------------|
| Secretary of Administration | \$121,807 |
| Secretary of Cultural Resources | 121,807 |
| Secretary of Commerce | 121,807 |
| Secretary of Environment and Natural Resources | 121,807 |
| Secretary of Health and Human Services | 121,807 |
| Secretary of Public Safety | 121,807 |
| Secretary of Revenue | 121,807 |
| Secretary of Transportation | 121,807 |

SECTION 25.02.(c) G.S. 143B-9 reads as rewritten:

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

The head of each principal State department, except those departments headed by popularly elected officers, shall be appointed by the Governor and serve at his pleasure.

The salary of the head of each of the principal State departments shall be set by the Governor, and the salary of elected officials shall be as provided by law.

The head of a principal State department shall appoint a chief deputy or chief assistant, and such chief deputy or chief assistant shall not be subject to the State Personnel Act. The salary of such chief deputy or chief assistant ~~shall, upon the recommendation of the Governor, be set by the General Assembly.~~ shall be set by the Governor. Unless otherwise provided for in the

Executive Organization Act of 1973, and subject to the provisions of the Personnel Act, the head of each principal State department shall designate the administrative head of each transferred agency and all employees of each division, section, or other unit of the principal State department."

SECTION 25.02.(d) Subsection (c) of this section applies to persons appointed on or after January 1, 2013. Subsection (b) of this section does not apply to such persons.

CERTAIN EXECUTIVE BRANCH OFFICIALS

SECTION 25.1.(a) Section 29.3 of S.L. 2011-145 reads as rewritten:

"CERTAIN EXECUTIVE BRANCH OFFICIALS

"SECTION 29.3. Effective for the ~~2011-2013 fiscal biennium,~~ 2012-2013 fiscal year, the annual salaries, payable monthly, for the following executive branch officials ~~shall remain unchanged~~ are set as follows:

| <u>Executive Branch Officials</u> | <u>Annual Salary</u> |
|---|---------------------------------------|
| Chairman, Alcoholic Beverage Control Commission | \$109,553 <u>\$110,868</u> |
| State Controller | 153,319 <u>155,159</u> |
| Commissioner of Motor Vehicles | 109,553 <u>110,868</u> |
| Commissioner of Banks | 123,198 <u>124,676</u> |
| Chairman, Employment Security Commission | 120,363 |
| <u>Chair, Board of Review, Division of Employment Security</u> | <u>122,255</u> |
| <u>Members, Board of Review, Division of Employment Security</u> | <u>120,737</u> |
| State Personnel Director | 120,363 <u>121,807</u> |
| Chairman, Parole Commission | 100,035 <u>101,235</u> |
| Members of the Parole Commission | 46,178 <u>46,732</u> |
| Chairman, Utilities Commission | 137,203 <u>138,849</u> |
| Members of the Utilities Commission | 123,198 <u>124,676</u> |
| Executive Director, Agency for Public Telecommunications | 92,356 |
| Director, Museum of Art | 112,256 <u>113,603</u> |
| Executive Director, North Carolina Agricultural Finance Authority | 106,635 <u>107,915</u> |
| State Chief Information Officer | 153,227 <u>155,066</u> ". |

SECTION 25.1.(b) G.S. 20-2(a) reads as rewritten:

"(a) Commissioner and Assistants. – The Division of Motor Vehicles shall be administered by the Commissioner of Motor Vehicles, who shall be appointed by and serve at the pleasure of the Secretary of the Department of Transportation. The Commissioner shall be paid an annual salary to be fixed by the ~~General Assembly in the Current Operations Appropriations Act~~ Governor and allowed his traveling expenses as allowed by law.

In any action, proceeding, or matter of any kind, to which the Commissioner of Motor Vehicles is a party or in which he may have an interest, all pleadings, legal notices, proof of claim, warrants for collection, certificates of tax liability, executions, and other legal documents, may be signed and verified on behalf of the Commissioner of Motor Vehicles by the Assistant Commissioner of Motor Vehicles or by any director or assistant director of any section of the Division of Motor Vehicles or by any other agent or employee of the Division so authorized by the Commissioner of Motor Vehicles."

SECTION 25.1.(c) G.S. 126-3(a) reads as rewritten:

"(a) There is hereby established the Office of State Personnel (hereinafter referred to as "the Office") which shall be placed for organizational purposes within the Department of Administration. Notwithstanding the provisions of North Carolina State government reorganization as of January 1, 1975, and specifically notwithstanding the provisions of Chapter 864 of the 1971 North Carolina Session Laws [Chapter 143A], the Office of State Personnel shall exercise all of its statutory powers in this Chapter independent of control by the Secretary of Administration and shall be under the administration and supervision of a State Personnel Director (hereinafter referred to as "the Director") appointed by the Governor and subject to the supervision of the Commission for purposes of this Chapter. The salary of the Director shall be fixed by the ~~General Assembly in the Current Operations Appropriations Act.~~ Governor. The Director shall serve at the pleasure of the Governor."

SECTION 25.1.(d) G.S. 140-5.15(c) reads as rewritten:

"(c) The State-funded portion of the salary of the Director shall be fixed by the ~~General Assembly in the Current Operations Appropriations Act, Governor.~~"

SECTION 25.1.(e) G.S. 147-33.76(c) reads as rewritten:

"(c) The salary of the State Chief Information Officer shall be set by the ~~General Assembly in the Current Operations Appropriations Act, Governor.~~ The State Chief Information Officer shall receive longevity pay on the same basis as is provided to employees of the State who are subject to the State Personnel Act."

SECTION 25.1.(f) Subsections (b) through (e) of this section apply to persons appointed to the positions of Commissioner of Motor Vehicles, State Personnel Director, Director of the North Carolina Museum of Art, and State Chief Information Officer on or after January 1, 2013. Subsection (a) of this section does not apply to such persons.

JUDICIAL BRANCH

SECTION 25.1A.(a) Section 29.4(a) of S.L. 2011-145 reads as rewritten:

"**SECTION 29.4.(a)** Effective for the ~~2011-2013 fiscal biennium,~~2012-2013 fiscal year, the annual salaries, payable monthly, for specified judicial branch officials ~~shall remain unchanged~~are set as follows:

| <u>Judicial Branch Officials</u> | <u>Annual Salary</u> |
|--|----------------------|
| Chief Justice, Supreme Court | \$140,932\$142,623 |
| Associate Justice, Supreme Court | 137,249138,896 |
| Chief Judge, Court of Appeals | 135,061136,682 |
| Judge, Court of Appeals | 131,531133,109 |
| Judge, Senior Regular Resident Superior Court | 127,957129,492 |
| Judge, Superior Court | 124,382125,875 |
| Chief Judge, District Court | 112,946114,301 |
| Judge, District Court | 109,372110,684 |
| District Attorney | 119,305120,737 |
| Administrative Officer of the Courts | 126,738128,259 |
| Assistant Administrative Officer of the Courts | 115,763117,152 |
| Public Defender | 119,305120,737 |
| Director of Indigent Defense Services | 123,022124,498". |

SECTION 25.1A.(b) The annual salaries of permanent full-time employees of the Judicial Department whose salaries are not itemized in this act shall be increased by one and two-tenths percent (1.2%).

SECTION 25.1A.(c) Section 29.4(b) of S.L. 2011-145 reads as rewritten:

"**SECTION 29.4.(b)** Effective for the ~~2011-2013 fiscal biennium,~~2011-2012 fiscal year, 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 for the 2011-2013 fiscal biennium.
- (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."

SECTION 25.1A.(d) The district attorney or public defender of a judicial district, with the approval of the Administrative Officer of the Courts or the Commission on Indigent Defense Services, respectively, shall set the salaries of assistant district attorneys or assistant public defenders, respectively, in that district such that the average salaries of assistant district attorneys or assistant public defenders in that district do not exceed seventy-one thousand seven hundred ninety-seven dollars (\$71,797) and the minimum salary of any assistant district attorney or assistant public defender is at least thirty-seven thousand six hundred twenty-eight dollars (\$37,628), effective July 1, 2012.

SECTION 25.1A.(e) G.S. 7A-101(a) reads as rewritten:

"(a) The clerk of superior court is a full-time employee of the State and shall receive an annual salary, payable in equal monthly installments, based on the population of the county as determined in subsection (a1) of this section, according to the following schedule:

| Population | Annual Salary |
|--------------------|---------------------------------------|
| Less than 100,000 | \$ 82,401 \$ <u>83,390</u> |
| 100,000 to 149,999 | 92,468 <u>93,578</u> |
| 150,000 to 249,999 | 102,536 <u>103,766</u> |
| 250,000 and above | 112,607 <u>113,958</u> |

When a county changes from one population group to another, the salary of the clerk shall be changed, on July 1 of the fiscal year for which the change is reported, to the salary appropriate for the new population group, except that the salary of an incumbent clerk shall not be decreased by any change in population group during his continuance in office."

SECTION 25.1A.(f) G.S. 7A-102(c1) reads as rewritten:

"(c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time deputy clerk serving as head bookkeeper per county, shall be paid an annual salary subject to the following minimum and maximum rates:

| Assistant Clerks and Head Bookkeeper | Annual Salary |
|--------------------------------------|---------------------------------------|
| Minimum | \$ 32,222 \$ <u>32,609</u> |
| Maximum | 54,767 <u>55,424</u> |
| Deputy Clerks | Annual Salary |
| Minimum | \$ 27,888 \$ <u>28,223</u> |
| Maximum | 42,596 <u>43,107</u> ". |

SECTION 25.1A.(g) G.S. 7A-171.1(a)(1) reads as rewritten:

"(1) A full-time magistrate shall be paid the annual salary indicated in the table set out in this subdivision. A full-time magistrate is a magistrate who is assigned to work an average of not less than 40 hours a week during the term of office. The Administrative Officer of the Courts shall designate whether a magistrate is full-time. Initial appointment shall be at the entry rate. A magistrate's salary shall increase to the next step every two years on the anniversary of the date the magistrate was originally appointed for increases to Steps 1 through 3, and every four years on the anniversary of the date the magistrate was originally appointed for increases to Steps 4 through 6.

Table of Salaries of Full-Time Magistrates

| Step Level | Annual Salary |
|------------|---------------------------------------|
| Entry Rate | \$ 32,633 \$ <u>33,025</u> |
| Step 1 | 35,525 <u>35,951</u> |
| Step 2 | 38,671 <u>39,135</u> |
| Step 3 | 42,134 <u>42,640</u> |
| Step 4 | 45,999 <u>46,551</u> |
| Step 5 | 50,335 <u>50,959</u> |
| Step 6 | 55,238 <u>55,901</u> ". |

SECTION 25.1A.(h) G.S. 7A-171.1(a1)(1) reads as rewritten:

"(a1) Notwithstanding subsection (a) of this section, the following salary provisions apply to individuals who were serving as magistrates on June 30, 1994:

(1) The salaries of magistrates who on June 30, 1994, were paid at a salary level of less than five years of service under the table in effect that date shall be as follows:

| | |
|--|---------------------------------------|
| Less than 1 year of service | \$ 26,528 \$ <u>26,846</u> |
| 1 or more but less than 3 years of service | 27,695 <u>28,027</u> |
| 3 or more but less than 5 years of service | 30,044 <u>30,405</u> |

Upon completion of five years of service, those magistrates shall receive the salary set as the Entry Rate in the table in subsection (a)."

LEGISLATIVE BRANCH

SECTION 25.1B.(a) Section 29.5 of S.L. 2011-145 reads as rewritten:

"GENERAL ASSEMBLY

"SECTION 29.5. For the 2011-2013 fiscal biennium, the salaries of members and officers of the General Assembly shall remain unchanged at the amounts set under G.S. 120-3, as

provided in 1994 by the 1993 General Assembly. Effective for the ~~2011-2013 fiscal biennium~~, 2011-2012 fiscal year, salaries in the legislative branch shall remain unchanged, as follows:

- ~~(1) The salaries of members and officers of the General Assembly shall remain unchanged at the amounts set under G.S. 120-3, as provided in 1994 by the 1993 General Assembly.~~
- (2) The annual salaries set by G.S. 120-37(c) for the principal clerks in each house shall remain unchanged.
- (3) The annual salaries set by G.S. 120-37(b) of the sergeant-at-arms and the reading clerk in each house shall remain unchanged.
- (4) The annual salaries of the Legislative Services Officer and of nonelected employees of the General Assembly set under G.S. 120-32 shall remain unchanged."

SECTION 25.1B.(b) G.S. 120-37(c) reads as rewritten:

"(c) The principal clerks shall be full-time officers. Each principal clerk shall be entitled to other benefits available to permanent legislative employees and shall be paid an annual salary of ~~one hundred four thousand eighty four dollars (\$104,084)~~ one hundred five thousand three hundred thirty-three dollars (\$105,333), payable monthly. Each principal clerk shall also receive such additional compensation as approved by the Speaker of the House of Representatives or the President Pro Tempore of the Senate, respectively, for additional employment duties beyond those provided by the rules of their House. The Legislative Services Commission shall review the salary of the principal clerks prior to submission of the proposed operating budget of the General Assembly to the Governor and shall make appropriate recommendations for changes in those salaries. Any changes enacted by the General Assembly shall be by amendment to this paragraph."

SECTION 25.1B.(c) G.S. 120-37(b) reads as rewritten:

"(b) The sergeant-at-arms and the reading clerk in each house shall be paid a salary of ~~three hundred eighty dollars (\$380.00)~~ three hundred eighty-five dollars (\$385.00) per week plus subsistence at the same daily rate provided for members of the General Assembly, plus mileage at the rate provided for members of the General Assembly for one round trip only from their homes to Raleigh and return. The sergeants-at-arms shall serve during sessions of the General Assembly and at such time prior to the convening of, and subsequent to adjournment or recess of, sessions as may be authorized by the Legislative Services Commission. The reading clerks shall serve during sessions only."

SECTION 25.1B.(d) The Legislative Services Officer shall increase the salaries of nonelected employees of the General Assembly in effect on June 30, 2012, by one and two-tenths percent (1.2%).

COMMUNITY COLLEGES PERSONNEL

SECTION 25.1C.(a) Section 29.6 of S.L. 2011-145 reads as rewritten:

"COMMUNITY COLLEGES PERSONNEL

"SECTION 29.6.(a) The annual salaries of all community college nonfaculty and professional staff whose salaries are supported from the State's General Fund shall remain unchanged for the ~~2011-2013 fiscal biennium~~, 2011-2012 fiscal year.

"SECTION 29.6.(b) For the ~~2011-2013 fiscal biennium~~, 2011-2012 fiscal year, the annual salaries of all community college faculty whose salaries are supported from the State's General Fund shall remain unchanged. The minimum salaries for nine-month, full-time curriculum community college faculty shall also remain unchanged as follows:

| Education Level | Minimum Salary |
|---|----------------|
| Vocational Diploma/Certificate or Less | \$34,314 |
| Associate Degree or Equivalent | \$34,819 |
| Bachelor's Degree | \$37,009 |
| Master's Degree or Education Specialist | \$38,952 |
| Doctoral Degree | \$41,753. |

No full-time faculty member shall earn less than the minimum salary for his or her education level.

The pro rata hourly rate of the minimum salary for each education level shall be used to determine the minimum salary for part-time faculty members."

1 **SECTION 25.1C.(b)** For the 2012-2013 fiscal year, the Director of the Budget
2 shall transfer from the Reserve for Compensation Increases created in this act to the State
3 Board of Community Colleges funds sufficient to provide community college employees a
4 salary increase of one and two-tenths percent (1.2%), including funds for the employers'
5 retirement and social security contributions. These compensation funds may be used for any
6 one or more of the following: (i) merit pay increases, (ii) across-the-board increases, (iii)
7 recruitment bonuses, (iv) retention increases, (v) any other compensation increase, (vi) to offset
8 the management flexibility reduction, or (vii) employ personnel. Categories (i) through (v) shall
9 be pursuant to policies adopted by the State Board of Community Colleges. The State Board of
10 Community Colleges shall make a preliminary report on the use of these funds to the 2013
11 Regular Session of the General Assembly no later than March 1, 2013, and a final report on
12 September 1, 2013.

13 14 **UNIVERSITY OF NORTH CAROLINA SYSTEM**

15 **SECTION 25.1D.(a)** Section 29.7 of S.L. 2011-145 reads as rewritten:

16 **"UNIVERSITY OF NORTH CAROLINA SYSTEM**

17 **"SECTION 29.7.(a)** The annual salaries of all University of North Carolina EPA faculty,
18 EPA nonfaculty, SPA employees, and teachers employed by the North Carolina School of
19 Science and Math shall remain unchanged for the ~~2011-2013 fiscal biennium~~2011-2012 fiscal
20 year.

21 **"SECTION 29.7.(b)** The annual salaries of all employees of the University of North
22 Carolina Health Care System and the Medical Faculty Practice Plan at East Carolina University
23 shall remain unchanged for the ~~2011-2013 fiscal biennium~~2011-2012 fiscal year."

24 **SECTION 25.1D.(b)** For the 2012-2013 fiscal year, the Director of the Budget
25 shall transfer from the Reserve for Compensation Increases created in this act to the Board of
26 Governors of The University of North Carolina funds sufficient to provide to employees who
27 are exempt from the State Personnel Act (EPA) a salary increase of one and two-tenths percent
28 (1.2%), including funds for the employers' retirement and social security contributions. These
29 compensation funds may be used to award compensation increases to EPA employees, pursuant
30 to policies adopted by the Board of Governors, including, but not limited to, any one or more of
31 the following: (i) merit pay increases, (ii) across-the-board increases, (iii) recruitment bonuses,
32 and (iv) retention increases. These compensation funds may also be used for one or more of the
33 following (i) to offset the management flexibility reduction, or (ii) employ personnel. The
34 Board of Governors shall make a preliminary report on the use of funds under this subsection to
35 the 2013 Regular Session of the General Assembly no later than March 1, 2013, and a final
36 report on September 1, 2013.

37 **SECTION 25.1D.(c)** For the 2012-2013 fiscal year, the Director of the Budget
38 shall transfer from the Reserve for Compensation Increases created in this act to the Board of
39 Governors of The University of North Carolina funds sufficient to provide to employees who
40 are subject to the State Personnel Act (SPA) a salary increase of one and two-tenths percent
41 (1.2%), including funds for the employers' retirement and social security contributions.

42 43 **MOST STATE EMPLOYEES**

44 **SECTION 25.1E.(a)** Section 29.9 of S.L. 2011-145 reads as rewritten:

45 **"MOST STATE EMPLOYEES**

46 **"SECTION 29.9.(a)** Effective for the ~~2011-2013 fiscal biennium~~2011-2012 fiscal year,
47 the salaries in effect June 30, 2011, of all permanent, full-time State employees whose salaries
48 are set in accordance with the State Personnel Act, shall remain unchanged.

49 **"SECTION 29.9.(b)** Effective for the ~~2011-2013 fiscal biennium~~2011-2012 fiscal year,
50 the compensation of permanent, full-time State officials and persons in exempt positions shall
51 remain unchanged.

52 **"SECTION 29.9.(c)** Effective for the ~~2011-2013 fiscal biennium~~2011-2012 fiscal year,
53 the salaries of permanent, part-time State employees shall remain unchanged.

54 **"SECTION 29.9.(d)** Effective for the ~~2011-2013 fiscal biennium~~2011-2012 fiscal year,
55 the compensation of temporary and permanent hourly State employees shall remain
56 unchanged."

57 **SECTION 25.1E.(b)** For the 2012-2013 fiscal year, the salaries in effect June 30,
58 2012, for the following employees shall be increased by one and two-tenths percent (1.2%),
59 effective July 1, 2012:

- 1 (1) Permanent full-time State officials and persons whose salaries are set in
2 accordance with the State Personnel Act.
- 3 (2) Permanent full-time State officials and persons in positions exempt from the
4 State Personnel Act.
- 5 (3) Permanent part-time State employees.
- 6 (4) Temporary and permanent hourly State employees.

7 **SECTION 25.1E.(c)** Section 29.10(b) of S.L. 2011-145 reads as rewritten:

8 "**SECTION 29.10.(b)** For the ~~2011-2013 fiscal biennium~~, 2011-2012 fiscal year, the
9 salaries of permanent, full-time employees who work a nine-, ten-, or eleven-month work year
10 schedule shall remain unchanged."
11

12 ALL STATE-SUPPORTED PERSONNEL/SALARY INCREASES

13 **SECTION 25.1F.(a)** The Director of the Budget shall transfer from the Reserve for
14 Compensation Increases in this act for fiscal year 2012-2013 all funds necessary for the salary
15 increases provided by this act, including funds for the employers' retirement and social security
16 contributions.

17 **SECTION 25.1F.(b)** Salaries and related benefits for positions that are funded
18 partially from the General Fund or Highway Fund and partially from sources other than the
19 General Fund or Highway Fund shall be increased from the General Fund or Highway Fund
20 appropriation only to the extent of the proportionate part of the salaries paid from the General
21 Fund or Highway Fund. Nothing in this act authorizes the transfer of funds between the
22 General Fund and the Highway Fund for salary increases.

23 **SECTION 25.1F.(c)** The fiscal year 2012-2013 salary increases provided in this
24 act are to be effective July 1, 2012, and do not apply to persons separated from State service
25 due to resignation, dismissal, reduction in force, death, or retirement or whose last workday is
26 prior to July 1, 2012.

27 **SECTION 25.1F.(d)** The granting of the salary increases under this act does not
28 affect the status of eligibility for salary increments for which employees may be eligible unless
29 otherwise required by this act.

30 **SECTION 25.1F.(e)** Payroll checks issued to employees July 1, 2012, which
31 represent payment of services provided prior to these increases shall not be eligible for salary
32 increases provided for in this act. This subsection shall apply to all employees, subject to or
33 exempt from the State Personnel Act, paid from State funds, including public schools,
34 community colleges, and The University of North Carolina.

35 **SECTION 25.1F.(f)** For the 2012-2013 fiscal year, permanent full-time State
36 agency employees who work a nine-, 10-, or 11-month work year schedule shall receive the
37 one and two-tenths percent (1.2%) annual increase provided by this act.
38

39 SALARY ADJUSTMENTS FOR SPECIAL CIRCUMSTANCES ONLY/NO 40 AUTOMATIC INCREASES

41 **SECTION 25.2.** Section 29.8 of S.L. 2011-145, as amended by Section 59A of
42 S.L. 2011-391, reads as rewritten:

43 "**SECTION 29.8.(a)** The annual pay of all State employees for the ~~2011-2013 fiscal~~
44 ~~biennium~~ 2011-2012 fiscal year shall remain unchanged from that authorized on June 30, 2011,
45 or the last date in pay status during the 2010-2011 fiscal year, if earlier, except that an increase
46 may be allowed during the 2011-2012 fiscal year under the following special circumstances:

- 47 (1) For all State employees regardless of funding source, and for employees of
48 the North Carolina Community College System and local school boards who
49 are paid from State funds, salaries may be increased for reallocations or
50 promotions, in-range adjustments for job change, career progression
51 adjustments for demonstrated competencies, or any other adjustment related
52 to an increase in job duties or responsibilities, none of which are subject to
53 the salary freeze otherwise provided by this Part. All other salary increases
54 are prohibited.
- 55 (1a) For employees of the North Carolina Community College System,
56 notwithstanding subdivision (1) of this subsection, salaries may be increased
57 if the increase is funded from local funding sources.
- 58 (2) For The University of North Carolina, (i) faculty using funds from the
59 Faculty Recruiting and Retention Fund, the Distinguished Professors

1 Endowment Fund, or the University Cancer Research Fund in the case of
2 faculty involved in cancer research supported by that fund and (ii) faculty,
3 nonfaculty, and other employee adjustments, including retention
4 adjustments, funded from non-State funding sources.

- 5 (3) For employees of the judicial branch, for local supplementation as
6 authorized by G.S. 7A-300.1.

7 The cumulative salary adjustment allowed under this subsection for the 2011-2012 fiscal year
8 may exceed ten percent (10%) of annual salary only if the adjustment is approved in advance
9 by the Office of State Budget and Management, The University of North Carolina Board of
10 Governors, the Board of the North Carolina Community College System, the Legislative
11 Services Commission, the local board of education, or other authorized body as appropriate.

12 "**SECTION 29.8.(b)** The automatic salary step increases for assistant and deputy clerks of
13 superior court and magistrates are suspended for the 2011-2013 fiscal biennium.

14 "**SECTION 29.8.(c)** The salary increase provisions of G.S. 20-187.3 are suspended for the
15 2011-2013 fiscal biennium.

16 "**SECTION 29.8.(d)** Notwithstanding G.S. 53-96.1, ~~and except as provided by subdivision~~
17 ~~(1) of subsection (a) of this section,~~ employees of the Office of the Commissioner of Banks
18 shall not be awarded compensation increases or bonuses during the 2011-2013 fiscal biennium.
19 Employees of the Office of the Commissioner of Banks shall receive an across-the-board salary
20 increase of one and two-tenths percent (1.2%) for the 2012-2013 fiscal year, as provided in
21 section 25.1E of The Current Operations and Capital Improvements Appropriations Act of
22 2012.

23 "**SECTION 29.8.(e)** Employees of the Lottery Commission shall not receive compensation
24 bonuses during the 2011-2013 fiscal biennium. Employees of the Lottery Commission shall
25 receive an across-the-board salary increase of one and two-tenths percent (1.2%) for the
26 2012-2013 fiscal year, as provided in section 25.1E of The Current Operations and Capital
27 Improvements Appropriations Act of 2012.

28 "~~**SECTION 29.8.(f)** No employee of any other State agency or constituent institution of~~
29 ~~The University of North Carolina, excluding employees of the University of North Carolina~~
30 ~~Health Care System and employees participating in a constituent institution's medical faculty~~
31 ~~practice plan, shall receive compensation bonuses."~~

33 **REPEAL OF PROVISIONS RELATED TO COMPENSATION ADJUSTMENT AND** 34 **PERFORMANCE PAY RESERVE**

35 **SECTION 25.2A.** Section 29.20A of S.L. 2011-145 is repealed.

37 **MONITOR MOST SALARY INCREASES**

38 **SECTION 25.2B.** Section 29.19 of S.L. 2011-145 reads as rewritten:

39 "**SECTION 29.19.(a)** The Office of State Budget and Management and the Office of State
40 Personnel shall monitor jointly ~~the compliance of salary increases awarded by the following~~
41 ~~units of government with the provisions of Section 29.8 of this act~~ and shall submit quarterly
42 reports of their monitoring activities to the President Pro Tempore of the Senate, the Speaker of
43 the House of Representatives, and the Fiscal Research Division: (i) State agencies,
44 departments, and institutions, including authorities, boards, and commissions; (ii) the judicial
45 branch; and (iii) The University of North Carolina and its constituent institutions.

46 The quarterly reports required by this section shall include the following information:

- 47 (1) For agencies reporting through the BEACON HR/Payroll system, (i) a
48 breakdown by action type ~~(including including, but not limited to,~~ promotion,
49 reallocation, career progression, salary adjustment, range revision, equity
50 and any similar actions increasing employee pay) of the number and annual
51 amount of those increases and (ii) a breakdown by action reason (including
52 in-range higher level, acting pay, trainee adjustment, and other similar action
53 reasons) of the number and annual amount of those action types coded as
54 salary adjustment.
- 55 (2) For The University of North Carolina and its constituent institutions, a
56 breakdown of the number and annual amount of those increases categorized
57 by the University as promotions, changes in job duties or responsibilities,
58 Distinguished Professorships, retention pay, career progression, and any
59 other similar actions increasing employee pay.

(3) ~~A summary of actions taken by the Office of State Budget and Management and the Office of State Personnel with respect to unauthorized salary increases.~~

"SECTION 29.19.(b) The Legislative Services Officer shall report quarterly to the President Pro Tempore of the Senate and the Speaker of the House of Representatives on compliance with this act."

REPEAL COMPREHENSIVE COMPENSATION SYSTEM

SECTION 25.2C.(a) The catch line of G.S. 126-7 reads as rewritten:

"§ 126-7. ~~Compensation of State employees.~~**Annual Compensation Survey.**"

SECTION 25.2C.(b) G.S. 126-7(a), (a2), (b1), (c), and (e) are repealed.

SECTION 25.2C.(c) G.S. 126-7(b) reads as rewritten:

"(b) To guide the Governor and the General Assembly in making ~~appropriations to fund the Comprehensive Compensation System,~~ decisions regarding the compensation of State employees, the State Personnel Commission shall conduct annual compensation surveys. The Commission shall present the results of the compensation survey to the Appropriations Committees of the House and Senate no later than two weeks after the convening of the legislature in odd years and May 1st of even years."

SECTION 25.2C.(d) G.S. 20-187.3(a) reads as rewritten:

"(a) The Secretary of Public Safety shall not make or permit to be made any order, rule, or regulation requiring the issuance of any minimum number of traffic citations, or ticket quotas, by any member or members of the State Highway Patrol. Pay and promotions of members of the Highway Patrol shall be based on their overall job performance and not on the basis of the volume of citations issued or arrests made. ~~The provisions of G.S. 126-7 shall not apply to members of the State Highway Patrol.~~ Members of the Highway Patrol shall, however, shall be subject to salary classes, ranges and longevity pay for service as are applicable to other State employees generally. Beginning July 1, 1985, and annually thereafter, each member of the Highway Patrol shall be granted a salary increase in an amount corresponding to the increments between steps within the salary range established for the class to which the member's position is assigned by the State Personnel Commission, not to exceed the maximum of each applicable salary range."

COMPREHENSIVE REVIEW FOR REFORM OF PUBLIC EMPLOYEE COMPENSATION PLANS/RECOMMENDATIONS FOR LEGISLATION BY MARCH 1, 2013

SECTION 25.2D. Section 29.20 of S.L. 2011-145 reads as rewritten:

"SECTION 29.20.(a) It is the intent of the General Assembly to create and implement a modernized, fair, and fully functional performance-based compensation system for employees of State agencies, departments, ~~institutions, and institutions and for employees of The University of North Carolina System, the North Carolina Community College System, and local education agencies.~~System who are subject to the State Personnel Act. To that end, the Legislative Services Commission, jointly through the Fiscal Research and Program Evaluation Divisions, is directed to commission a review and study of the current compensation plans of State agencies, departments, ~~institutions, and institutions and employees of The University of North Carolina System, the North Carolina Community College System, and local education agencies.~~System who are subject to the State Personnel Act (government sectors). The Legislative Services Commission may use a Request for Information process or a Request for Proposals process to contract with a qualified consulting firm to perform this review and study. The study, at minimum, shall include all of the following:

- (1) A labor market analysis of pay, fringe benefits, classification, and banding plans of government sector employees to determine whether current employees are compensated appropriately relative to market rates for similar positions as compared to (i) other North Carolina public employees, (ii) similar positions and employees in other states, and (iii) where applicable, employees in private industry.
- (2) An analysis of current performance-based compensation plans in use by the North Carolina Banking ~~Commission,~~Commission and the University of North Carolina Health Care System, ~~and the performance based compensation system proposed by Charlotte/Mecklenburg County~~

~~Schools System.~~ This analysis should include an assessment of the effectiveness of these performance-based plans and should include identification of best practices.

- (3) An evaluation of current longevity pay as applicable to most government sector employees and recommendations as to whether longevity pay should be continued for new hires.
- (4) An evaluation of current laws and policies related to "career status" for employees subject to the State Personnel Act ~~and tenure for public school teachers and university professors. For public school teachers, the evaluation of tenure shall include its relationship with student performance, if any.~~ Act. This evaluation should also include recommendations as to whether these laws and policies should be continued or modified based upon human resource best practices.
- (5) ~~An evaluation of salary supplements for public school employees paid on account of master's degrees, attainment of other advanced degrees, and national board certification, including the relationship to student performance, if any. This evaluation should also include recommendations as to whether these salary supplements should be continued or modified based upon the effect on student performance, if any, and human resource best practices.~~
- (6) An evaluation of the State Personnel Act, including recommendations as to whether these laws and policies should be continued or modified based upon human resource best practices.
- (7) An analysis of the effect of in-State regional variables on employee compensation and recommendations as to how those variables should be addressed in the future.
- (8) Recommendations of how to evaluate and compare the value of employee fringe benefits.
- (9) Recommendations, timetable, and design of a comprehensive performance-based compensation plan across all government sectors for implementation by the General Assembly. Recommendations must include the design of an effective employee performance evaluation system, including the identification of effective employee performance measures and information systems (including estimated costs) to track and monitor employee performance.
- (10) Training recommendations for supervisors and managers regarding employee productivity and performance evaluation.
- (11) Recommendations to assure equity of compensation among public employees across government sectors.
- (12) Feasibility of a consensus forecasting group to make annual recommendations for compensation policy across all government sectors. These recommendations should include how to establish and maintain priorities for General Fund appropriations necessary to fund the performance-based compensation system while remaining affordable for the State and its taxpayers.

"SECTION 29.20.(b) In the event that the Legislative Services Commission contracts with a qualified consulting firm to perform the review and study, the consultant shall report its progress to the Fiscal Research and Program Evaluation Divisions every 90 days.

"SECTION 29.20.(c) ~~By May 1, 2012, March 1, 2013,~~ the Fiscal Research and Program Evaluation Divisions, or at their direction by the consultant hired to perform the review and study, shall report all findings and any other final results of the study, including recommendations and legislative proposals, to the ~~2012 Regular Session of the 2011~~2013 General Assembly.

"SECTION 29.20.(d) All State agencies, departments, ~~institutions, and institutions, and~~ The University of North Carolina System, ~~the North Carolina Community College System, and~~ ~~local education agencies~~ System shall provide any information, data, or documents within their possession, ascertainable from their records, or otherwise available to them to the Fiscal Research and Program Evaluation Divisions and/or the consultant necessary to complete this review and study.

1 "SECTION 29.20.(e) The State Personnel Director, the State Budget Director, the State
2 Controller, and the State Treasurer shall dedicate and identify staff for technical assistance, as
3 needed, to aid in the reviews required by this section."
4

5 UNIVERSITY FACULTY RECRUITING AND RETENTION FUND

6 SECTION 25.3. The Faculty Recruiting and Retention Fund under the Office of
7 the President of The University of North Carolina is reestablished for the 2012-2013 fiscal
8 year. Allocations from the fund shall be made for salary increases at the discretion of the
9 President of The University of North Carolina only for the purpose of recruiting and retaining
10 faculty members as necessary at constituent institutions.
11

12 TEACHER SALARY SCHEDULES

13 SECTION 25.6.(a) The following monthly salary schedules shall apply for the
14 2012-2013 fiscal year to certified personnel of the public schools who are classified as teachers.
15 The schedules contain 36 steps, with each step corresponding to one year of teaching
16 experience. Public school employees paid according to this salary schedule and receiving
17 NBPTS certification or obtaining a master's degree shall not be prohibited from receiving the
18 appropriate increase in salary. Provided, however, teachers employed during the 2011-2012
19 school year who did not work the required number of months to acquire an additional year of
20 experience shall not receive a decrease in salary as otherwise would be required by the salary
21 schedule below.
22

23 2012-2013 Monthly Salary Schedule

| 24 | "A" Teachers | | |
|----|---------------------|--------------|---------------------|
| 25 | Years of Experience | "A" Teachers | NBPTS Certification |
| 26 | 0 | \$3,043 | N/A |
| 27 | 1 | \$3,043 | N/A |
| 28 | 2 | \$3,043 | N/A |
| 29 | 3 | \$3,043 | \$3,408 |
| 30 | 4 | \$3,043 | \$3,408 |
| 31 | 5 | \$3,085 | \$3,455 |
| 32 | 6 | \$3,129 | \$3,504 |
| 33 | 7 | \$3,264 | \$3,656 |
| 34 | 8 | \$3,404 | \$3,812 |
| 35 | 9 | \$3,538 | \$3,963 |
| 36 | 10 | \$3,667 | \$4,107 |
| 37 | 11 | \$3,771 | \$4,224 |
| 38 | 12 | \$3,819 | \$4,277 |
| 39 | 13 | \$3,868 | \$4,332 |
| 40 | 14 | \$3,918 | \$4,388 |
| 41 | 15 | \$3,967 | \$4,443 |
| 42 | 16 | \$4,018 | \$4,500 |
| 43 | 17 | \$4,069 | \$4,557 |
| 44 | 18 | \$4,122 | \$4,617 |
| 45 | 19 | \$4,176 | \$4,677 |
| 46 | 20 | \$4,231 | \$4,739 |
| 47 | 21 | \$4,286 | \$4,800 |
| 48 | 22 | \$4,345 | \$4,866 |
| 49 | 23 | \$4,403 | \$4,931 |
| 50 | 24 | \$4,461 | \$4,996 |
| 51 | 25 | \$4,523 | \$5,066 |
| 52 | 26 | \$4,584 | \$5,134 |
| 53 | 27 | \$4,650 | \$5,208 |
| 54 | 28 | \$4,714 | \$5,280 |
| 55 | 29 | \$4,779 | \$5,352 |
| 56 | 30 | \$4,845 | \$5,426 |
| 57 | 31 | \$4,913 | \$5,503 |
| 58 | 32 | \$4,984 | \$5,582 |
| 59 | 33 | \$5,055 | \$5,662 |

| | | | |
|---|-----|---------|---------|
| 1 | 34 | \$5,153 | \$5,771 |
| 2 | 35+ | \$5,255 | \$5,886 |

2012-2013 Monthly Salary Schedule

| 5 | "M" Teachers | | |
|----|---------------------|--------------|---------------------|
| 6 | Years of Experience | "M" Teachers | NBPTS Certification |
| 7 | 0 | \$3,347 | N/A |
| 8 | 1 | \$3,347 | N/A |
| 9 | 2 | \$3,347 | N/A |
| 10 | 3 | \$3,347 | \$3,749 |
| 11 | 4 | \$3,347 | \$3,749 |
| 12 | 5 | \$3,394 | \$3,801 |
| 13 | 6 | \$3,442 | \$3,855 |
| 14 | 7 | \$3,590 | \$4,021 |
| 15 | 8 | \$3,744 | \$4,193 |
| 16 | 9 | \$3,892 | \$4,359 |
| 17 | 10 | \$4,034 | \$4,518 |
| 18 | 11 | \$4,148 | \$4,646 |
| 19 | 12 | \$4,201 | \$4,705 |
| 20 | 13 | \$4,255 | \$4,766 |
| 21 | 14 | \$4,310 | \$4,827 |
| 22 | 15 | \$4,364 | \$4,888 |
| 23 | 16 | \$4,420 | \$4,950 |
| 24 | 17 | \$4,476 | \$5,013 |
| 25 | 18 | \$4,534 | \$5,078 |
| 26 | 19 | \$4,594 | \$5,145 |
| 27 | 20 | \$4,654 | \$5,212 |
| 28 | 21 | \$4,715 | \$5,281 |
| 29 | 22 | \$4,780 | \$5,354 |
| 30 | 23 | \$4,843 | \$5,424 |
| 31 | 24 | \$4,907 | \$5,496 |
| 32 | 25 | \$4,975 | \$5,572 |
| 33 | 26 | \$5,042 | \$5,647 |
| 34 | 27 | \$5,115 | \$5,729 |
| 35 | 28 | \$5,185 | \$5,807 |
| 36 | 29 | \$5,257 | \$5,888 |
| 37 | 30 | \$5,330 | \$5,970 |
| 38 | 31 | \$5,404 | \$6,052 |
| 39 | 32 | \$5,482 | \$6,140 |
| 40 | 33 | \$5,561 | \$6,228 |
| 41 | 34 | \$5,668 | \$6,348 |
| 42 | 35+ | \$5,781 | \$6,475 |

SECTION 25.6.(b) Section 29.12(d) of S.L. 2011-145 reads as rewritten:

"SECTION 29.12.(d) The first step of the salary schedule for school psychologists shall be equivalent to ~~Step 5,~~ Step 9, corresponding to ~~five~~ nine 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."

SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE

SECTION 25.7.(a) The following base salary schedule for school-based administrators shall apply only to principals and assistant principals. This base salary schedule

1 shall apply for the 2012-2013 fiscal year, commencing July 1, 2012. Provided, however,
 2 school-based administrators (i) employed during the 2011-2012 school year who did not work
 3 the required number of months to acquire an additional year of experience and (ii) employed
 4 during the 2012-2013 school year in the same classification shall not receive a decrease in
 5 salary as otherwise would be required by the salary schedule below.
 6

7 2012-2013 Principal and Assistant Principal Salary Schedules
 8 Classification

| 9 | Years of Exp | Assistant Principal | Prin I (0-10) | Prin II (11-21) | Prin III (22-32) | Prin IV (33-43) |
|----|--------------|------------------------|------------------|--------------------|---------------------|--------------------|
| 10 | 0-8 | \$3,781 | - | - | - | - |
| 11 | 9 | \$3,931 | - | - | - | - |
| 12 | 10 | \$4,074 | - | - | - | - |
| 13 | 11 | \$4,189 | - | - | - | - |
| 14 | 12 | \$4,243 | \$4,243 | - | - | - |
| 15 | 13 | \$4,298 | \$4,298 | - | - | - |
| 16 | 14 | \$4,353 | \$4,353 | \$4,408 | - | - |
| 17 | 15 | \$4,408 | \$4,408 | \$4,464 | - | - |
| 18 | 16 | \$4,464 | \$4,464 | \$4,521 | \$4,579 | - |
| 19 | 17 | \$4,521 | \$4,521 | \$4,579 | \$4,640 | \$4,701 |
| 20 | 18 | \$4,579 | \$4,579 | \$4,640 | \$4,701 | \$4,762 |
| 21 | 19 | \$4,640 | \$4,640 | \$4,701 | \$4,762 | \$4,828 |
| 22 | 20 | \$4,701 | \$4,701 | \$4,762 | \$4,828 | \$4,891 |
| 23 | 21 | \$4,762 | \$4,762 | \$4,828 | \$4,891 | \$4,956 |
| 24 | 22 | \$4,828 | \$4,828 | \$4,891 | \$4,956 | \$5,025 |
| 25 | 23 | \$4,891 | \$4,891 | \$4,956 | \$5,025 | \$5,092 |
| 26 | 24 | \$4,956 | \$4,956 | \$5,025 | \$5,092 | \$5,166 |
| 27 | 25 | \$5,025 | \$5,025 | \$5,092 | \$5,166 | \$5,237 |
| 28 | 26 | \$5,092 | \$5,092 | \$5,166 | \$5,237 | \$5,310 |
| 29 | 27 | \$5,166 | \$5,166 | \$5,237 | \$5,310 | \$5,383 |
| 30 | 28 | \$5,237 | \$5,237 | \$5,310 | \$5,383 | \$5,458 |
| 31 | 29 | \$5,310 | \$5,310 | \$5,383 | \$5,458 | \$5,537 |
| 32 | 30 | \$5,383 | \$5,383 | \$5,458 | \$5,537 | \$5,617 |
| 33 | 31 | \$5,458 | \$5,458 | \$5,537 | \$5,617 | \$5,725 |
| 34 | 32 | \$5,537 | \$5,537 | \$5,617 | \$5,725 | \$5,839 |
| 35 | 33 | \$5,617 | \$5,617 | \$5,725 | \$5,839 | \$5,956 |
| 36 | 34 | \$5,725 | \$5,725 | \$5,839 | \$5,956 | \$6,075 |
| 37 | 35 | \$5,839 | \$5,839 | \$5,956 | \$6,075 | \$6,197 |
| 38 | 36 | - | \$5,956 | \$6,075 | \$6,197 | \$6,321 |
| 39 | 37 | - | - | \$6,197 | \$6,321 | \$6,447 |
| 40 | 38 | - | - | \$6,321 | \$6,447 | \$6,576 |
| 41 | 39 | - | - | - | \$6,576 | \$6,708 |
| 42 | 40 | - | - | - | \$6,708 | \$6,842 |
| 43 | 41 | - | - | - | - | \$6,979 |

44 2012-2013 Principal and Assistant Principal Salary Schedules
 45 Classification

| 46 | Years of Exp | Prin V (44-54) | Prin VI (55-65) | Prin VII (66-100) | Prin VIII (101+) |
|----|--------------|-------------------|--------------------|----------------------|---------------------|
| 47 | 0-18 | \$4,828 | - | - | - |
| 48 | 19 | \$4,891 | - | - | - |
| 49 | 20 | \$4,956 | \$5,025 | - | - |
| 50 | 21 | \$5,025 | \$5,092 | \$5,237 | - |
| 51 | 22 | \$5,092 | \$5,166 | \$5,310 | \$5,383 |
| 52 | 23 | \$5,166 | \$5,237 | \$5,383 | \$5,458 |
| 53 | 24 | \$5,237 | \$5,310 | \$5,458 | \$5,537 |
| 54 | 25 | \$5,310 | \$5,383 | \$5,537 | \$5,617 |
| 55 | 26 | \$5,383 | \$5,458 | \$5,617 | \$5,725 |
| 56 | 27 | \$5,458 | \$5,537 | \$5,725 | \$5,839 |

| | | | | | |
|----|----|---------|---------|---------|---------|
| 1 | 28 | \$5,537 | \$5,617 | \$5,839 | \$5,956 |
| 2 | 29 | \$5,617 | \$5,725 | \$5,956 | \$6,075 |
| 3 | 30 | \$5,725 | \$5,839 | \$6,075 | \$6,197 |
| 4 | 31 | \$5,839 | \$5,956 | \$6,197 | \$6,321 |
| 5 | 32 | \$5,956 | \$6,075 | \$6,321 | \$6,447 |
| 6 | 33 | \$6,075 | \$6,197 | \$6,447 | \$6,576 |
| 7 | 34 | \$6,197 | \$6,321 | \$6,576 | \$6,708 |
| 8 | 35 | \$6,321 | \$6,447 | \$6,708 | \$6,842 |
| 9 | 36 | \$6,447 | \$6,576 | \$6,842 | \$6,979 |
| 10 | 37 | \$6,576 | \$6,708 | \$6,979 | \$7,119 |
| 11 | 38 | \$6,708 | \$6,842 | \$7,119 | \$7,261 |
| 12 | 39 | \$6,842 | \$6,979 | \$7,261 | \$7,406 |
| 13 | 40 | \$6,979 | \$7,119 | \$7,406 | \$7,554 |
| 14 | 41 | \$7,119 | \$7,261 | \$7,554 | \$7,705 |
| 15 | 42 | \$7,261 | \$7,406 | \$7,705 | \$7,859 |
| 16 | 43 | - | \$7,554 | \$7,859 | \$8,016 |
| 17 | 44 | - | \$7,705 | \$8,016 | \$8,176 |
| 18 | 45 | - | - | \$8,176 | \$8,340 |

SECTION 25.7.(b) G.S. 29.13(h) of S.L. 2011-145 reads as rewritten:

"**SECTION 29.13.(h)** During the 2011-2012 fiscal year, year and the 2012-2013 fiscal year, the placement on the salary schedule of an administrator with a one-year provisional assistant principal's certificate shall be at the entry-level salary for an assistant principal or the appropriate step on the teacher salary schedule, whichever is higher."

FUNDS FOR PERSONNEL FLEXIBILITY IN THE LEAS

SECTION 25.7A.(a) Effective July 1, 2012, the Director of the Budget shall transfer from the Reserve for Compensation Increases and Personnel Flexibility to the State Board of Education the sum of eighty-four million nine hundred sixty-four thousand one hundred forty-two dollars (\$84,964,142) for the 2012-2013 fiscal year.

The State Board of Education shall allocate these funds to local school administrative units on the basis of average daily membership.

SECTION 25.7A.(b) Local school administrative units may use these funds to do one or more of the following: (i) award compensation increases to employees, including, but not limited to, merit increases, across-the-board increases, recruitment and retention bonuses, and other bonuses, pursuant to local personnel policies; (ii) offset the LEA flexibility adjustment; or (iii) employ personnel.

SECTION 25.7A.(c) No compensation increase awarded pursuant to this section shall be construed to modify an employee's placement on a State salary schedule.

SECTION 25.7A.(d) Local school administrative units shall report to the State Board of Education on the use of these funds. The State Board of Education shall make preliminary reports on the use of these funds by local school administrative units to the General Assembly on October 1, 2012, and March 1, 2013, and shall make a final report on September 1, 2013.

EXEMPT POSITIONS

SECTION 25.7B.(a) G.S. 126-5(d) reads as rewritten:

- "(d) (1) Exempt Positions in Cabinet Department. – ~~The Subject to the provisions of this Chapter, which is known as the State Personnel Act, the Governor may designate a total of 1001,000 exempt policymaking~~ positions throughout the following departments:
 - a. Department of Administration;
 - b. Department of Commerce;
 - c. ~~Division of Adult Correction of the Department of Public Safety;~~
 - d. Department of Public Safety;
 - e. Department of Cultural Resources;
 - f. Department of Health and Human Services;
 - g. Department of Environment and Natural Resources;
 - h. Department of Revenue;

1 i. Department of ~~Transportation; and Transportation.~~
2 j. ~~Division of Juvenile Justice of the Department of Public Safety.~~
3 ~~The Governor may designate exempt managerial positions in a number up to~~
4 ~~one percent (1%) of the total number of full-time positions in each cabinet~~
5 ~~department listed above in this sub-subdivision, not to exceed 30 positions in~~
6 ~~each department. Notwithstanding the provisions of this subdivision, or the~~
7 ~~other requirements of this subsection, the Governor may at any time increase~~
8 ~~by five the number of exempt policymaking positions at the Department of~~
9 ~~Health and Human Services, but at no time shall the total number of exempt~~
10 ~~policymaking positions exceed 105. The Governor shall notify the General~~
11 ~~Assembly and the State Personnel Director of the additional positions~~
12 ~~designated hereunder.~~

13 (2) Exempt Positions in Council of State Departments and Offices. – The
14 Secretary of State, the Auditor, the Treasurer, the Attorney General, the
15 Commissioner of Agriculture, the Commissioner of Insurance, and the Labor
16 Commissioner may designate exempt positions. The State Board of
17 Education may designate exempt positions in the Department of Public
18 Instruction. The number of exempt policymaking positions in each
19 department headed by an elected department head listed above in this
20 sub-subdivision shall be limited to 20 exempt policymaking positions or one
21 percent (1%) of the total number of full-time positions in the department,
22 whichever is greater. The number of exempt managerial positions shall be
23 limited to 20 positions or one percent (1%) of the total number of full-time
24 positions in the department, whichever is greater.

25 (2a) Designation of Additional Positions. – The Governor, elected department
26 head, or State Board of Education may request that additional positions be
27 designated as exempt. The request shall be made by sending a list of exempt
28 positions that exceed the limit imposed by this subsection to the Speaker of
29 the North Carolina House of Representatives and the President of the North
30 Carolina Senate. A copy of the list also shall be sent to the State Personnel
31 Director. The General Assembly may authorize all, or part of, the additional
32 positions to be designated as exempt positions. If the General Assembly is in
33 session when the list is submitted and does not act within 30 days after the
34 list is submitted, the list shall be deemed approved by the General Assembly,
35 and the positions shall be designated as exempt positions. If the General
36 Assembly is not in session when the list is submitted, the 30-day period shall
37 not begin to run until the next date that the General Assembly convenes or
38 reconvenes, other than for a special session called for a specific purpose not
39 involving the approval of the list of additional positions to be designated as
40 exempt positions; the policymaking positions shall not be designated as
41 exempt during the interim.

42 (3) Letter. – These positions shall be designated in a letter to the State Personnel
43 Director, the Speaker of the House of Representatives, and the President of
44 the Senate by ~~May 1~~ July 1 of the year in which the oath of office is
45 administered to each Governor unless the provisions of subsection (d)(4)
46 apply.

47 (4) Vacancies. – In the event of a vacancy in the Office of Governor or in the
48 office of a member of the Council of State, the person who succeeds to or is
49 appointed or elected to fill the unexpired term shall make such designations
50 in a letter to the State Personnel Director, the Speaker of the House of
51 Representatives, and the President of the Senate within ~~120~~ 180 days after the
52 oath of office is administered to that person. In the event of a vacancy in the
53 Office of Governor, the State Board of Education shall make these
54 designations in a letter to the State Personnel Director, the Speaker of the
55 House of Representatives, and the President of the Senate within ~~120~~ 180
56 days after the oath of office is administered to the Governor.

57 (5) Creation, Transfer, or Reorganization. – The Governor, elected department
58 head, or State Board of Education may designate as exempt a position that is
59 created or transferred to a different department, or is located in a department

1 in which reorganization has occurred, after ~~May 1~~ July 1 of the year in
 2 which the oath of office is administered to the Governor. The designation
 3 must be made in a letter to the State Personnel Director, the Speaker of the
 4 North Carolina House of Representatives, and the President of the North
 5 Carolina Senate within ~~120~~ 180 days after such position is created,
 6 transferred, or in which reorganization has occurred.

7 (6) Reversal. – Subsequent to the designation of a position as an exempt
 8 position as hereinabove provided, the status of the position may be reversed
 9 and made subject to the provisions of this Chapter by the Governor, by an
 10 elected department head, or by the State Board of Education in a letter to the
 11 State Personnel Director, the Speaker of the North Carolina House of
 12 Representatives, and the President of the North Carolina Senate.

13 (7) Hearing Officers. – Except as otherwise specifically provided by this
 14 section, no employee, by whatever title, whose primary duties include the
 15 power to conduct hearings, take evidence, and enter a decision based on
 16 findings of fact and conclusions of law based on statutes and legal
 17 precedents shall be designated as exempt. This subdivision shall apply
 18 beginning July 1, 1985, and no list submitted after that date shall designate
 19 as exempt any employee described in this subdivision."

20 **SECTION 25.7B.(b)** This section becomes effective January 1, 2013.

21 SALARY-RELATED CONTRIBUTIONS

22 **SECTION 25.10.** Section 29.22(d) of S.L. 2011-145 reads as rewritten:

23 **"SECTION 29.22.(d)** Effective July 1, 2012, the State's employer contribution rates
 24 budgeted for retirement and related benefits as percentage of covered salaries for the 2012-2013
 25 fiscal year are: (i) ~~fourteen and thirty one hundredths percent (14.31%)~~ fourteen and
 26 twenty-three hundredths percent (14.23%) – Teachers and State Employees; (ii) ~~nineteen and~~
 27 ~~thirty one hundredths percent (19.31%)~~ nineteen and twenty-three hundredths percent (19.23%)
 28 – State Law Enforcement Officers; (iii) ~~twelve and sixty six hundredths percent (12.66%)~~
 29 twelve and fifty-eight hundredths percent (12.58%) – University Employees' Optional
 30 Retirement System; (iv) ~~twelve and sixty six hundredths percent (12.66%)~~ twelve and
 31 fifty-eight hundredths percent (12.58%) – Community College Optional Retirement Program;
 32 (v) ~~thirty one and seventy hundredths percent (31.70%)~~ thirty-one and eighty-five hundredths
 33 percent (31.85%) – Consolidated Judicial Retirement System; and (vi) five and thirty
 34 hundredths percent (5.30%) – Legislative Retirement System. Each of the foregoing
 35 contribution rates includes five and thirty hundredths percent (5.30%) for hospital and medical
 36 benefits. The rate for Teachers and State Employees, State Law Enforcement Officers,
 37 Community College Optional Retirement Program, and for the University Employees' Optional
 38 Retirement Program includes ~~fifty two hundredths percent (0.52%)~~ forty-four hundredths
 39 percent (0.44%) for the Disability Income Plan. The rates for Teachers and State Employees
 40 and State Law Enforcement Officers include sixteen hundredths percent (0.16%) for the Death
 41 Benefits Plan. The rate for State Law Enforcement Officers includes five percent (5%) for
 42 Supplemental Retirement Income."
 43

44 EXPAND OPTIONAL RETIREMENT PROGRAM FOR UNIVERSITY OF NORTH 45 CAROLINA SYSTEM

46 **SECTION 25.12.** G.S. 135-5.1(a) reads as rewritten:

47 "(a) An Optional Retirement Program provided for in this section is authorized and
 48 established and shall be implemented by the Board of Governors of The University of North
 49 Carolina. The Optional Retirement Program shall be underwritten by the purchase of annuity
 50 contracts, which may be both fixed and variable contracts or a combination thereof, or financed
 51 through the establishment of a trust, for the benefit of participants in the Program. Participation
 52 in the Optional Retirement Program shall be limited to University personnel who are eligible
 53 for membership in the Teachers' and State Employees' Retirement Program and who are:

- 54 (1) Administrators and faculty of The University of North Carolina with the
 55 rank of instructor or above;
 56 (2) The President and employees of The University of North Carolina who are
 57 appointed by the Board of Governors on recommendation of the President
 58 pursuant to G.S. 116-11(4), 116-11(5), and 116-14 or who are appointed by
 59

1 the Board of Trustees of a constituent institution of The University of North
 2 Carolina upon the recommendation of the Chancellor pursuant to
 3 G.S. 116-40.22(b);

- 4 (3) Nonfaculty instructional and research staff who are exempt from the State
 5 Personnel Act, as defined by the provisions of G.S. 126-5(c1)(8), and the
 6 faculty of the North Carolina School of Science and Mathematics; and
 7 (4) Field faculty of the Cooperative Agriculture Extension Service, and tenure
 8 track faculty in North Carolina State University agriculture research
 9 programs who are exempt from the State Personnel Act and who are eligible
 10 for membership in the Teachers' and State Employees' Retirement System
 11 pursuant to G.S. 135-3(1), who in any of the cases described in this
 12 subsection (i) had been members of the Optional Retirement Program under
 13 the provisions of Chapter 338, Session Laws of 1971, immediately prior to
 14 July 1, 1985, or (ii) have sought membership as required in subsection (b),
 15 below. Under the Optional Retirement Program, the State and the participant
 16 shall contribute, to the extent authorized or required, toward the purchase of
 17 such contracts or deposited in such trust on the participant's behalf.
 18 (5) Employees of The University of North Carolina Health Care System, subject
 19 to rules for eligibility and participation as may be adopted by the Board of
 20 Governors in the Optional Retirement Program plan document.
 21 (6) Employees hired on or after January 1, 2013."

22
 23 **PROVIDE COST-OF-LIVING INCREASES FOR RETIREES OF THE TEACHERS'
 24 AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE JUDICIAL
 25 RETIREMENT SYSTEM, AND THE LEGISLATIVE RETIREMENT SYSTEM**

26 **SECTION 25.13.(a)** G.S. 135-5 is amended by adding a new subsection to read:

27 "(sss) From and after July 1, 2012, the retirement allowance to or on account of
 28 beneficiaries whose retirement commenced on or before July 1, 2011, shall be increased by one
 29 percent (1%) of the allowance payable on June 1, 2012, in accordance with G.S. 135-5(o).
 30 Furthermore, from and after July 1, 2012, the retirement allowance to or on account of
 31 beneficiaries whose retirement commenced after July 1, 2011, but before June 30, 2012, shall
 32 be increased by a prorated amount of one percent (1%) of the allowance payable as determined
 33 by the Board of Trustees based upon the number of months that a retirement allowance was
 34 paid between July 1, 2011, and June 30, 2012."

35 **SECTION 25.13.(b)** G.S. 135-65 is amended by adding a new subsection to read:

36 "(dd) From and after July 1, 2012, the retirement allowance to or on account of
 37 beneficiaries whose retirement commenced on or before July 1, 2011, shall be increased by one
 38 percent (1%) of the allowance payable on June 1, 2012. Furthermore, from and after July 1,
 39 2012, the retirement allowance to or on account of beneficiaries whose retirement commenced
 40 after July 1, 2011, but before June 30, 2012, shall be increased by a prorated amount of one
 41 percent (1%) of the allowance payable as determined by the Board of Trustees based upon the
 42 number of months that a retirement allowance was paid between July 1, 2011, and June 30,
 43 2012."

44 **SECTION 25.13.(c)** G.S. 120-4.22A is amended by adding a new subsection to
 45 read:

46 "(x) In accordance with subsection (a) of this section, from and after July 1, 2012, the
 47 retirement allowance to or on account of beneficiaries whose retirement commenced on or
 48 before January 1, 2012, shall be increased by one percent (1%) of the allowance payable on
 49 June 1, 2012. Furthermore, from and after July 1, 2012, the retirement allowance to or on
 50 account of beneficiaries whose retirement commenced after January 1, 2012, but before June
 51 30, 2012, shall be increased by a prorated amount of one percent (1%) of the allowance payable
 52 as determined by the Board of Trustees based upon the number of months that a retirement
 53 allowance was paid between January 1, 2012, and June 30, 2012."

54
 55 **PART XXVI. CAPITAL APPROPRIATIONS**

56
 57 **CAPITAL APPROPRIATIONS/GENERAL FUND**

58 **SECTION 26.1.** There is appropriated from the General Fund for the 2012-2013
 59 fiscal year the following amounts for capital improvements:

| | | |
|---|--|---------------------|
| 1 | | |
| 2 | Capital Improvements – General Fund | 2012-2013 |
| 3 | | |
| 4 | Department of Environment and Natural Resources | |
| 5 | Water Resources Development Projects | \$ 5,000,000 |
| 6 | | |
| 7 | TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND | \$ 5,000,000 |

WATER RESOURCES DEVELOPMENT PROJECTS

9
10 **SECTION 26.2.(a)** The Department of Environment and Natural Resources shall
11 allocate funds for water resources projects in accordance with the schedule that follows. The
12 amounts set forth in the schedule include funds appropriated in this act for water resources
13 projects and funds carried forward from previous fiscal years in accordance with subsection (b)
14 of this section. These funds will provide a State match for an estimated eighty-six million three
15 hundred ninety thousand dollars (\$86,390,000) in federal funds.

| | | |
|----|--|----------------------|
| 16 | | |
| 17 | Name of Project | 2012-2013 |
| 18 | | |
| 19 | (1) B. Everett Jordan Lake Water Supply Storage | \$200,000 |
| 20 | (2) Wilmington Harbor Maintenance | 1,200,000 |
| 21 | (3) Morehead City Harbor Maintenance | — |
| 22 | (4) Wilmington Harbor Deepening | 6,000,000 |
| 23 | (5) 2012 Corps Long Term MOA for Dredging | 3,350,000 |
| 24 | (6) Carolina Beach Renourishment Project | 1,184,000 |
| 25 | (7) Wilmington Harbor Improvements Feasibility | 500,000 |
| 26 | (8) John H. Kerr Dam and Reservoir Sec. 216 | 200,000 |
| 27 | (9) Aquatic Plant Control, Statewide and Lake Gaston | 200,000 |
| 28 | (10) State-Local Projects | 593,000 |
| 29 | (11) Catawba Water Management Group Study | 100,000 |
| 30 | | |
| 31 | TOTALS | \$ 13,527,000 |

32
33 **SECTION 26.2.(b)** It is the intent of the General Assembly that funds carried
34 forward from previous fiscal years be used to supplement the five million dollars (\$5,000,000)
35 appropriated for water resources development projects in Section 26.1 of this act. Therefore,
36 the following funds carried forward from previous fiscal years shall be used for the following
37 projects:

| | | |
|----|---|-------------------------------|
| 38 | | |
| 39 | Name of Project | Amount Carried Forward |
| 40 | | |
| 41 | (1) B. Everett Jordan Lake Water Supply Storage | \$ 200,000 |
| 42 | (2) Wilmington Harbor Maintenance | 1,200,000 |
| 43 | (3) 2012 Corps MOA for Shallow Draft Inlet Dredging | 3,350,000 |
| 44 | (4) Wilmington Harbor Deepening | 3,000,000 |
| 45 | (5) Wilmington Harbor Improvements Feasibility | 250,000 |
| 46 | (6) State-Local Projects | 527,000 |
| 47 | | |
| 48 | TOTALS | \$ 8,527,000 |

49
50 **SECTION 26.2.(c)** Where the actual costs are different from the estimated costs
51 under subsection (a) of this section, the Department may adjust the allocations among projects
52 as needed. If any projects funded under subsection (a) of this section are delayed and the
53 budgeted State funds cannot be used during the 2012-2013 fiscal year, or if the projects funded
54 under subsection (a) of this section are accomplished at a lower cost, the Department may use
55 the resulting fund availability to fund any of the following:

- 56 (1) U.S. Army Corps of Engineers project feasibility studies.
- 57 (2) U.S. Army Corps of Engineers projects whose schedules have advanced and
58 require State-matching funds in the 2012-2013 fiscal year.
- 59 (3) State-local water resources development projects.

1 Funds subject to this subsection that are not expended or encumbered for the purposes set forth
2 in subdivisions (1) through (3) of this subsection shall revert to the General Fund at the end of
3 the 2013-2014 fiscal year.

4 **SECTION 26.2.(d)** The Department shall make semiannual reports on the use of
5 these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal
6 Research Division of the General Assembly, and the Office of State Budget and Management.
7 Each report shall include all of the following:

- 8 (1) All projects listed in this section.
- 9 (2) The estimated cost of each project.
- 10 (3) The date that work on each project began or is expected to begin.
- 11 (4) The date that work on each project was completed or is expected to be
12 completed.
- 13 (5) The actual cost of each project.

14 The semiannual reports also shall show those projects advanced in schedule, those
15 projects delayed in schedule, and an estimate of the amount of funds expected to revert to the
16 General Fund.

17 **SECTION 26.2.(e)** Notwithstanding any provision of law to the contrary, funds
18 appropriated for a water resources development project shall be used to provide no more than
19 fifty percent (50%) of the nonfederal portion of funds for the project. This subsection applies to
20 funds appropriated in this act and to funds appropriated prior to the 2011-2013 fiscal biennium
21 that are unencumbered and proposed for reallocation to provide the nonfederal portion of funds
22 for water resources development projects. The limitation on fund usage contained in this
23 subsection applies only to projects in which a local government or local governments
24 participate.

25 **SECTION 26.2.(f)** The 2012 Long Term Dredging Memorandum of Agreement
26 with the U.S. Army Corps of Engineers authorized by this section shall provide for all of the
27 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) Adherence to the requirements of subsection (e) of this section.
- 31 (3) Annual reporting by the Department on the use of funds provided to the U.S.
32 Army Corps of Engineers under the 2012 Long Term Dredging
33 Memorandum of Agreement. These reports shall be made to the Joint
34 Legislative Commission on Governmental Operations, the Fiscal Research
35 Division of the General Assembly, and the Office of State Budget and
36 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 **REPAIRS AND RENOVATIONS RESERVE ALLOCATION**

45 **SECTION 26.4.(a)** Of the funds in the Reserve for Repairs and Renovations for
46 the 2012-2013 fiscal year, the following allocations shall be made to the following agencies for
47 repairs and renovations pursuant to G.S. 143C-4-3:

- 48 (1) Fifty-four percent (54%) shall be allocated to the Board of Governors of The
49 University of North Carolina.
- 50 (2) Forty-six percent (46%) shall be allocated to the Office of State Budget and
51 Management.

52 The Office of State Budget and Management shall consult with or report to the Joint
53 Legislative Commission on Governmental Operations, as appropriate, in accordance with
54 G.S. 143C-4-3(e). The Board of Governors shall report to the Joint Legislative Commission on
55 Governmental Operations in accordance with G.S. 143C-4-3(d).

56 **SECTION 26.4.(b)** Notwithstanding G.S. 143C-4-3(d), of the funds allocated to
57 the Board of Governors of The University of North Carolina in subsection (a) of this section, a
58 portion shall be used by the Board of Governors for the installation of fire sprinklers in
59

1 university residence halls. This portion shall be in addition to funds otherwise appropriated in
2 this act for the same purpose. Such funds shall be allocated among the university's constituent
3 institutions by the President of The University of North Carolina, who shall consider the
4 following factors when allocating those funds:

- 5 (1) The safety and well-being of the residents of campus housing programs.
- 6 (2) The current level of housing rents charged to students and how that
7 compares to an institution's public peers and other UNC institutions.
- 8 (3) The level of previous authorizations to constituent institutions for the
9 construction or renovation of residence halls funded from the General Fund,
10 or from bonds or certificates of participation supported by the General Fund,
11 since 1996.
- 12 (4) The financial status of each constituent institution's housing system,
13 including debt capacity, debt coverage ratios, credit rankings, required
14 reserves, the planned use of cash balances for other housing system
15 improvements, and the constituent institution's ability to pay for the
16 installation of fire sprinklers in all residence halls.
- 17 (5) The total cost of each proposed project, including the cost of installing fire
18 sprinklers and the cost of other construction, such as asbestos removal and
19 additional water supply needs.

20 The Board of Governors shall submit progress reports to the Joint Legislative
21 Commission on Governmental Operations. Reports shall include the status of completed,
22 current, and planned projects. Reports also shall include information on the financial status of
23 each constituent institution's housing system, the constituent institution's ability to pay for fire
24 protection in residence halls, and the timing of installation of fire sprinklers. Reports shall be
25 submitted on January 1 and July 1 until all residence halls have fire sprinklers.

26 **SECTION 26.4.(c)** Notwithstanding G.S. 143C-4-3(d), of the funds allocated to
27 the Board of Governors of The University of North Carolina in subsection (a) of this section, a
28 portion shall be used by the Board of Governors for campus public safety improvements
29 allowable under G.S. 143C-4-3(b).

30 **REPORTING ON CAPITAL PROJECTS**

31 **SECTION 26.5.(a)** Definitions. – The following definitions apply in this section:

- 32 (1) Capital project. – Any capital improvement, as that term is defined in
33 G.S. 143C-1-1, that is not complete by the effective date of this section and
34 that is funded in whole or in part with either State funds or statutorily or
35 constitutionally authorized indebtedness of any kind. This term includes only
36 projects with a total cost of one hundred thousand dollars (\$100,000) or
37 more.
- 38 (2) Construction phase. – The status of a particular capital project as described
39 using the terms customarily employed in the design and construction
40 industries.
- 41 (3) New capital project. – A capital project that is authorized in this act or
42 subsequent to the effective date of this act.

43 **SECTION 26.5.(b)** Reporting. – The following reports are required:

- 44 (1) By October 1, 2012, and every six months thereafter, each State agency shall
45 report on the status of agency capital projects to the Joint Legislative
46 Commission on Governmental Operations and to the Joint Legislative
47 Oversight Committee on Capital Improvements.
- 48 (2) By October 1, 2012, and quarterly thereafter, each State agency shall report
49 on the status of agency capital projects to the Fiscal Research Division of the
50 General Assembly and to the Office of State Budget and Management.

51 **SECTION 26.5.(c)** The reports required by this section shall include at least the
52 following information about every agency capital project:

- 53 (1) The current construction phase of the project.
 - 54 (2) The anticipated timeline from the current construction phase to project
55 completion.
 - 56 (3) Information about expenditures that have been made in connection with the
57 project, regardless of source of the funds expended.
- 58

- 1 (4) Information about the adequacy of funding to complete the project,
 2 including estimates of how final expenditures will relate to initial estimates
 3 of expenditures, and whether or not scope reductions will be necessary in
 4 order to complete the project within its budget.
 5 (5) For new capital projects only, an estimate of the operating costs for the
 6 project for the first five fiscal years of its operation.
 7

8 **UNCW SOCIAL AND BEHAVIORAL SCIENCES BUILDING**

9 **SECTION 26.6.** Section 29.13(a) of S.L. 2007-323, as amended by Section 27.8(d)
 10 of S.L. 2008-107 and Section 2(b) of S.L. 2009-209, reads as rewritten:

11 "**SECTION 29.13.(a)** The State, with the prior approval of the State Treasurer and the
 12 Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized
 13 to issue or incur special indebtedness in order to provide funds to the State to be used, together
 14 with other available funds, to pay the capital facility costs of the projects described in this
 15 subsection. In accordance with G.S. 142-83, this subsection authorizes the issuance or
 16 incurrence of special indebtedness:

- 17 ...
 18 (9) In the maximum aggregate principal amount of thirty-two million eight
 19 hundred ninety-nine thousand six hundred ninety-nine dollars (\$32,899,699)
 20 to finance the capital facility costs of completing a new teaching laboratory
 21 at the University of North Carolina at Wilmington and of renovating the
 22 Social and Behavioral Science Building at the University of North Carolina
 23 at Wilmington. No more than a maximum aggregate amount of two million
 24 five hundred thousand dollars (\$2,500,000) of special indebtedness may be
 25 issued or incurred under this subdivision prior to July 1, 2008. No more than
 26 a maximum aggregate amount of eight million six hundred thirty-one
 27 thousand two hundred fifty dollars (\$8,631,250) of special indebtedness may
 28 be issued or incurred under this subdivision prior to July 1, 2009.

29"

30 **TRANSFER FOR PLANT CONSERVATION PROGRAM**

31 **SECTION 26.9.** From funds deposited with the State Treasurer in a capital
 32 improvement account to the credit of the Department of Agriculture and Consumer Services
 33 pursuant to G.S. 146-30, the sum of thirty thousand dollars (\$30,000) for the 2012-2013 fiscal
 34 year shall be transferred to the Department of Agriculture and Consumer Services to be used,
 35 notwithstanding G.S. 146-30, by the Department for its plant conservation program under
 36 Article 19B of Chapter 106 of the General Statutes for costs incidental to the acquisition of
 37 land, such as land appraisals, land surveys, title searches, and environmental studies, and for
 38 the management of the plant conservation program preserves owned by the Department.
 39

40 **AUTHORIZE UNC CARRYFORWARD FUNDS TO BE USED FOR CAPITAL PROJECTS**

41 **SECTION 26.10.** G.S. 143C-8-12 reads as rewritten:

42 "**§ 143C-8-12. University system capital improvement projects from sources that are not**
 43 **General Fund sources: approval of new project or change in scope of existing**
 44 **project.**

45 Notwithstanding any other provision of this Chapter, the Board of Governors of The
 46 University of North Carolina may approve: (i) expenditures to plan a capital improvement
 47 project of The University of North Carolina the planning for which is to be funded entirely with
 48 non-General Fund money, (ii) expenditures for a capital improvement project of The University
 49 of North Carolina that is to be funded and operated entirely with non-General Fund money, or
 50 (iii) a change in the scope of any previously approved capital improvement project of The
 51 University of North Carolina provided that both the project and change in scope are funded
 52 entirely with non-General Fund money. For purposes of this section, the term "non-General
 53 Fund money" includes funds carried forward from one fiscal year to another pursuant to
 54 G.S. 116-30.3. The Board of Governors shall report any expenditure made pursuant to this
 55 section to the Office of State Budget and Management and to the Joint Legislative Commission
 56 on Governmental Operations."
 57
 58
 59

OSBM ALLOCATION OF REPAIRS AND RENOVATIONS FUNDS

SECTION 26.11. G.S. 143C-4-3 is amended by adding a new subsection to read:

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

PART XXVII. MISCELLANEOUS PROVISIONS**STATE BUDGET ACT APPLIES**

SECTION 27.1. The provisions of the State Budget Act, Chapter 143C of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

COMMITTEE REPORT

SECTION 27.2.(a) The Senate Base Budget/Appropriations Committee Report on the Continuation, Expansion and Capital Budgets dated June 12, 2012, which was distributed in the Senate and used to explain this act, shall indicate action by the General Assembly on this act and shall, therefore, be used to construe this act, as provided in the State Budget Act, Chapter 143C of the General Statutes, as appropriate, and for these purposes shall be considered a part of this act and, as such, shall be printed as a part of the Session Laws.

SECTION 27.2.(b) The budget enacted by the General Assembly is for the maintenance of the various departments, institutions, and other spending agencies of the State for the 2012-2013 budget as provided in G.S. 143C-3-5. This budget includes the appropriations of State funds as defined in G.S. 143C-1-1(d)(25).

The Director of the Budget submitted recommended adjustments to the budget to the General Assembly in May 2012 in the document "Investing in Our Future/Recommended Adjustments 2012-2013 North Carolina State Budget" for the 2012-2013 fiscal year for the various departments, institutions, and other spending agencies of the State. The adjustments to these documents made by the General Assembly are set out in the Committee Report.

SECTION 27.2.(c) The budget enacted by the General Assembly shall also be interpreted in accordance with G.S. 143C-5-5, the special provisions in this act, and other appropriate legislation.

In the event that there is a conflict between the line-item budget certified by the Director of the Budget and the budget enacted by the General Assembly, the budget enacted by the General Assembly shall prevail.

REPORT BY FISCAL RESEARCH DIVISION ON CHANGES TO 2012-2013 BUDGET/PUBLICATION

SECTION 27.3.(a) The Fiscal Research Division of the Legislative Services Commission shall issue a report on budget actions taken by the 2011 Regular Session of the General Assembly in 2012. The report shall be in the form of a revision of the Committee Report adopted for House Bill 950 pursuant to G.S. 143C-5-5, and shall include all modifications made to the 2012-2013 budget prior to sine die adjournment of the 2011 Regular Session.

SECTION 27.3.(b) The report issued pursuant to this section, and the Committee Report issued pursuant to G.S. 143C-5-5, shall be construed together with this act in determining the intent of the General Assembly.

SECTION 27.3.(c) The Director of the Fiscal Research Division of the Legislative Services Commission shall send a copy of the report issued pursuant to this section to the Director of the Budget. The report shall be published on the General Assembly's Internet Web site for public access.

MOST TEXT APPLIES ONLY TO THE 2012-2013 FISCAL YEAR

1 **SECTION 27.4.** Except for statutory changes or other provisions that clearly
2 indicate an intention to have effects beyond the 2012-2013 fiscal year, the textual provisions of
3 this act apply only to funds appropriated for, and activities occurring during, the 2012-2013
4 fiscal year.

5
6 **EFFECT OF HEADINGS**

7 **SECTION 27.5.** The headings to the parts and sections of this act are a
8 convenience to the reader and are for reference only. The headings do not expand, limit, or
9 define the text of this act, except for effective dates referring to a part.

10
11 **APPROPRIATIONS LIMITATIONS AND DIRECTIONS APPLY**

12 **SECTION 27.6.(a)** Except where expressly repealed or amended by this act, the
13 provisions of S.L. 2011-145, S.L. 2011-315, S.L. 2011-373, S.L. 2011-391, S.L. 2011-419, and
14 S.L. 2012-2 remain in effect.

15 **SECTION 27.6.(b)** Notwithstanding any modifications by this act in the amounts
16 appropriated, except where expressly repealed or amended, the limitations and directions for
17 the 2012-2013 fiscal year in S.L. 2011-145, S.L. 2011-315, S.L. 2011-373, S.L. 2011-391,
18 S.L. 2011-419, and S.L. 2012-2 that applied to appropriations to particular agencies or for
19 particular purposes apply to the newly enacted appropriations and budget reductions of this act
20 for those same particular purposes.

21
22 **SEVERABILITY**

23 **SECTION 27.7.** If any section or provision of this act is declared unconstitutional
24 or invalid by the courts, it does not affect the validity of this act as a whole or any part other
25 than the part so declared to be unconstitutional or invalid.

26
27 **EFFECTIVE DATE**

28 **SECTION 27.8.** Except as otherwise provided, this act becomes effective
29 July 1, 2012.