

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
Senate Pensions & Retirement and Aging Committee Substitute Adopted 6/12/12
Fifth Edition Engrossed 6/13/12
Proposed Conference Committee Substitute H950-PCCS30649-LU-2

Short Title: Modify 2011 Appropriations Act.

(Public)

Sponsors:

Referred to:

May 17, 2012

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

4 The General Assembly of North Carolina enacts:

5
6 **PART I. INTRODUCTION AND TITLE OF ACT**

7
8 **INTRODUCTION**

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

15
16 **TITLE OF ACT**

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

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

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

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

28
29 **Current Operations – General Fund**

2012-2013

30
31 **EDUCATION**

32
33 Community Colleges System Office

\$

5,165,000



* H 9 5 0 - P C C S 3 0 6 4 9 - C C S L U - 2 *

1	Department of Public Instruction		62,430,967
2			
3	University of North Carolina – Board of Governors		
4	Appalachian State University		573,876
5	East Carolina University		
6	Academic Affairs		4,447,287
7	Health Affairs		0
8	Elizabeth City State University		0
9	Fayetteville State University		473,656
10	NC A&T State University		0
11	NC Central University		0
12	NC State University		
13	Academic Affairs		3,346,252
14	Agricultural Research		0
15	Agricultural Extension		0
16	UNC-Asheville		0
17	UNC-Chapel Hill		
18	Academic Affairs		0
19	Health Affairs		0
20	AHEC		0
21	UNC-Charlotte		0
22	UNC-Greensboro		103,534
23	UNC-Pembroke		0
24	UNC-School of the Arts		0
25	UNC-Wilmington		434,038
26	Western Carolina University		0
27	Winston-Salem State University		0
28	General Administration		9,808,141
29	University Institution Programs		15,560,828
30	Related Educational Programs		(12,139,141)
31	UNC Financial Aid Private Colleges		4,500,000
32	NC School of Science & Math		0
33	UNC Hospitals		(3,000,000)
34	Total University of North Carolina – Board of Governors	\$	24,108,471
35			
36	HEALTH AND HUMAN SERVICES		
37			
38	Department of Health and Human Services		
39	Division of Central Management and Support	\$	1,307,641
40	Division of Aging and Adult Services		50,000,000
41	Division of Services for Blind/Deaf/Hard of Hearing		(168,336)
42	Division of Child Development		(3,500,000)
43	Division of Health Service Regulation		1,792,559
44	Division of Medical Assistance		194,172,266
45	Division of Mental Health, Dev. Disabilities and Sub. Abuse		(15,196,981)
46	NC Health Choice		(2,007,430)
47	Division of Public Health		11,384,778
48	Division of Social Services		(9,079,116)
49	Division of Vocational Rehabilitation		0
50	Total Health and Human Services	\$	228,705,381
51			
52	NATURAL AND ECONOMIC RESOURCES		
53			
54	Department of Agriculture and Consumer Services	\$	47,362,832
55			
56	Department of Commerce		
57	Commerce		7,471,362
58	Commerce State-Aid		(1,217,540)
59	NC Biotechnology Center		(351,034)

1	Rural Economic Development Center	(3,757,535)
2		
3	Department of Environment and Natural Resources	(39,339,288)
4		
5	DENR Clean Water Management Trust Fund	(500,000)
6		
7	Department of Labor	(316,738)
8		
9	Wildlife Resources Commission	434,397
10		
11	JUSTICE AND PUBLIC SAFETY	
12		
13	Department of Public Safety	\$ (32,231,135)
14		
15	Judicial Department	(2,334,307)
16	Judicial Department – Indigent Defense	0
17		
18	Department of Justice	(6,667,504)
19		
20	GENERAL GOVERNMENT	
21		
22	Department of Administration	\$ (24,861)
23		
24	Department of State Auditor	(213,521)
25		
26	Office of State Controller	1,580,412
27		
28	Department of Cultural Resources	
29	Cultural Resources	(298,866)
30	Roanoke Island Commission	(300,000)
31		
32	State Board of Elections	(102,532)
33		
34	General Assembly	1,570,422
35		
36	Office of the Governor	
37	Office of the Governor	(94,823)
38	Office of State Budget and Management	(116,973)
39	OSBM – Reserve for Special Appropriations	1,438,388
40	Housing Finance Agency	(8,064,634)
41		
42	Department of Insurance	
43	Insurance	459,055
44	Insurance – Volunteer Safety Workers' Compensation	0
45		
46	Office of Lieutenant Governor	(144,150)
47		
48	Office of Administrative Hearings	0
49		
50	Department of Revenue	(1,563,991)
51		
52	Department of Secretary of State	766,661
53		
54	Department of State Treasurer	
55	State Treasurer	0
56	State Treasurer – Retirement for Fire and Rescue Squad Workers	0
57		
58	RESERVES, ADJUSTMENTS AND DEBT SERVICE	
59		

1	Information Technology Fund	\$	(750,000)
2	Reserve for Job Development Investment Grants (JDIG)		(6,500,000)
3	Judicial Retirement System Contribution		100,000
4	Continuation/Justification Review Reserve		(35,576,758)
5	Compensation and Performance Pay Reserve		(121,105,840)
6	Reserve for Compensation Increases and Personnel Flexibility		159,984,426
7	Disability Income Plan Rate Reduction		(8,688,000)
8	One North Carolina Fund		9,000,000
9	Reserve for VIPER		10,000,000
10			
11	Debt Service		
12	General Debt Service		(52,904,635)
13			
14	TOTAL CURRENT OPERATIONS – GENERAL FUND	\$	237,413,109

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
21			
22	Unappropriated Balance Remaining	\$	41,232,325
23	Anticipated Overcollections from FY 2011-2012		232,500,000
24	Anticipated Reversions for FY 2011-2012		205,500,000
25	Net Supplemental Medicaid Appropriation (S.L. 2012-2)		(154,000,000)
26	Less Earmarkings of Year-End Fund Balance		
27	Savings Reserve Account		(123,170,924)
28	Repairs and Renovations Reserve Account		(23,170,924)
29	Beginning Unreserved Fund Balance	\$	178,890,477
30			
31	Revenue Based on Existing Tax Structure		18,931,200,000
32			
33	Nontax Revenue		
34	Investment Income		21,600,000
35	Judicial Fees		258,700,000
36	Disproportionate Share		115,000,000
37	Insurance		73,700,000
38	Other Nontax Revenues		304,400,000
39	Highway Trust Fund Transfer		27,600,000
40	Highway Fund Transfer		212,280,000
41	Total – Nontax Revenues		1,013,280,000
42			
43	Subtotal General Fund Availability		20,123,370,477
44			
45	Adjustments to Availability: 2012 Session		
46	E-Commerce Reserve Cash Balance		2,470,642
47	One North Carolina Fund Cash Balance		45,000,000
48	Sale of State Assets Receipt		(25,000,000)
49	Information Technology Internal Service Fund Cash Balance		14,000,000
50	National Mortgage Settlement		9,610,000
51	Highway Fund Transfer – Technical Adjustment		8,000,000
52	Work Opportunity Tax Credit Extension (HB 1015 Reserve)		(800,000)
53	Tax Deduction for Educational Supplies (HB 1015 Reserve)		(1,800,000)
54	Sales Tax Refund Application for		
55	Passenger Air Carriers (HB 1015 Reserve)		(3,150,000)
56	Insurance Regulatory Fund		166,613
57	Teaching Fellows Trust Fund Cash Balance		3,265,000
58	Diversion of Golden L.E.A.F. Funds		3,750,000
59	Charitable Licensing Receipts		979,752

1		
2	Subtotal Adjustments to Availability:	56,492,007
3		
4	Revised Total General Fund Availability	20,179,862,484
5	Less General Fund Appropriations	20,179,862,484
6		
7	Balance Remaining	0
8		

9 **SECTION 2.2.(b)** Notwithstanding the provisions of G.S. 143C-4-3, the State
10 Controller shall transfer only twenty-three million one hundred seventy thousand nine hundred
11 twenty-four dollars (\$23,170,924) from the unreserved fund balance to the Repairs and
12 Renovations Reserve Account on June 30, 2012.

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

16 **SECTION 2.2.(d)** Notwithstanding G.S. 143C-4-2 and pursuant to subsection (a)
17 of this section, the State Controller shall transfer one hundred twenty-three million one hundred
18 seventy thousand nine hundred twenty-four dollars (\$123,170,924) from the unreserved fund
19 balance to the Savings Reserve Account on June 30, 2012.

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

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

27 **SECTION 2.2.(f)** Notwithstanding any other provision of law, the sum of
28 forty-five million dollars (\$45,000,000) from the Department of Commerce, One North
29 Carolina Fund, shall be transferred to the State Controller to be deposited in the appropriate
30 budget code as determined by the State Controller for the 2012-2013 fiscal year.

31 **SECTION 2.2.(g)** Notwithstanding any other provision of law, the sum of two
32 million four hundred seventy thousand six hundred forty-two dollars (\$2,470,642) from the
33 E-Commerce Reserve, Budget Code 24100, shall be transferred to the State Controller to be
34 deposited in the appropriate budget code as determined by the State Controller for the
35 2012-2013 fiscal year.

36 **SECTION 2.2.(h)** Section 2.2(e) of S.L. 2011-145 reads as rewritten:

37 "**SECTION 2.2.(e)** Of the 2011-2012 and the 2012-2013 annual installment payments to
38 the North Carolina State Specific Account that would have been transferred to The Golden
39 L.E.A.F. (Long-Term Economic Advancement Foundation), Inc., pursuant to Section 2(b) of
40 S.L. 1999-2, seventeen million five hundred sixty-three thousand seven hundred sixty dollars
41 (\$17,563,760) for the 2011-2012 fiscal year and ~~seventeen million five hundred sixty-three~~
42 ~~thousand seven hundred sixty dollars (\$17,563,760)~~ twenty-one million three hundred thirteen
43 thousand seven hundred sixty dollars (\$21,313,760) for the 2012-2013 fiscal year is transferred
44 to the General Fund."

45 **SECTION 2.2.(i)** Notwithstanding any other provision of law to the contrary, the
46 sum of three million two hundred sixty-five thousand dollars (\$3,265,000) from the Department
47 of Public Instruction Trust Special-Teaching Fellows shall be transferred to the State Controller
48 to be deposited in Nontax Budget Code 19978 or the appropriate budget code as determined by
49 the State Controller for the 2012-2013 fiscal year.

50 **SECTION 2.2.(j)** This section becomes effective June 30, 2012.

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

52 **CURRENT OPERATIONS/HIGHWAY FUND**

53
54 **SECTION 3.1.** Appropriations from the State Highway Fund for the maintenance
55 and operation of the Department of Transportation and for other purposes as enumerated are
56 adjusted for the fiscal year ending June 30, 2013, according to the following schedule.
57 Amounts set out in parentheses are reductions from Highway Fund Appropriations for the
58 2012-2013 fiscal year.
59

1		
2	Current Operations – Highway Fund	2012-2013
3		
4	Department of Transportation	
5	Administration	\$ 1,595,705
6		
7	Division of Highways	
8	Administration	(164,266)
9	Construction	(26,293,824)
10	Maintenance	(60,832,242)
11	Planning and Research	0
12	OSHA Program	0
13		
14	Ferry Operations	(3,000,000)
15		
16	State Aid	
17	Municipalities	(912,604)
18	Public Transportation	(5,908,506)
19	Airports	0
20	Railroads	(500,000)
21		
22	Governor's Highway Safety Program	0
23	Division of Motor Vehicles	50,152,343
24	Other State Agencies, Reserves, and Transfers	(67,266,606)
25	Capital Improvements	0
26		
27	Total	\$ (113,130,000)

HIGHWAY FUND AVAILABILITY STATEMENT

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

32		
33	Highway Fund Availability Statement	2012-2013
34		
35	Unreserved Fund Balance	\$ 27,000,000
36	Revenue Based on Existing Law	\$ 2,062,680,000
37	Adjustment to Revenue Availability (Motor Fuels Tax)	\$ (46,650,000)
38	Adjustment to Revenue Availability (Civil Penalties)	\$ (22,000,000)
39		
40	Revised Total Highway Fund Availability	\$ 2,021,030,000
41		
42	Unappropriated Balance	\$ 0

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

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

52		
53	Current Operations – Highway Trust Fund	2012-2013
54		
55	Program Administration	\$ (1,516,320)
56	Intrastate System	(9,338,145)
57	Aid to Municipalities	(979,789)
58	Secondary Roads	(979,789)
59	Urban Loops	(3,775,957)

1	Turnpike Authority	(30,500,000)
2		
3	Transfer to General Fund	0
4	Transfer to Highway Fund	0
5	Debt Service	0
6	Mobility Fund	75,500,000
7	Reserves	(45,000,000)
8		
9	GRAND TOTAL CURRENT OPERATIONS	\$ (16,590,000)

HIGHWAY TRUST FUND AVAILABILITY STATEMENT

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

15	Highway Trust Fund Availability	2012-2013
16		
17	Unreserved Fund Balance	\$ 15,000,000
18	Revenue Based on Existing Law	1,070,870,000
19	Adjustment to Revenue Availability (Motor Fuels Tax)	(15,550,000)
20		
21	Revised Total Highway Trust Fund Availability	\$1,070,320,000

PART V. OTHER APPROPRIATIONS

ELIMINATE REPORTING REQUIREMENT/APPROPRIATION OF OTHER FUNDS/USE OF DEPARTMENTAL RECEIPTS

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

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

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

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

~~**"SECTION 5.1.(c)** In addition to the consultation and reporting requirements set out in G.S. 143C-6-4, the Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division within 30 days~~

1 after the end of each quarter on any overrealized receipts approved for expenditure under this
 2 subsection by the Director of the Budget. The report shall include the source of the receipt, the
 3 amount overrealized, the amount authorized for expenditure, and the rationale for expenditure.

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

9 (1) There is appropriated from the Reserve for Reimbursements to Local
 10 Governments and Shared Tax Revenues for each fiscal year an amount equal
 11 to the amount of the distributions required by law to be made from that
 12 reserve for that fiscal year.

13 (2) There is appropriated from the General Fund an amount equal to the amount
 14 required to issue refunds for tax overpayments, in accordance with the
 15 provisions of Chapter 105 of the General Statutes or any other applicable
 16 law.

17 (3) There is appropriated from the Escheat Fund any escheated property
 18 awarded to a claimant in accordance with the provisions of Chapter 116B of
 19 the General Statutes or any other applicable law.

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

23 EDUCATION LOTTERY

24 **SECTION 5.3.(a)** Notwithstanding G.S. 18C-164, the revenue used to support
 25 appropriations made in this act is transferred from the State Lottery Fund in the amount of four
 26 hundred forty-one million three hundred fifty-nine thousand four hundred one dollars
 27 (\$441,359,401) for the 2012-2013 fiscal year.

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

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

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

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

38 Teachers in Early Grades	\$ 220,643,188
39 Prekindergarten Program	\$ 63,135,709
40 Public School Building Capital Fund	\$ 100,000,000
41 Scholarships for Needy Students	\$ 30,450,000
42 UNC Need-Based Financial Aid	\$ 10,744,733
43 LEA Adjustment	\$ 16,385,771
44 Total Appropriation	\$ 441,359,401

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

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

53 PART VI. GENERAL PROVISIONS

54 REMOVE CONSULTATION BY GOVERNOR REQUIREMENT/INTERIM 55 APPROPRIATIONS COMMITTEES

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

1
2 **EXTEND REPORTING DATE/UTILIZATION REVIEW/PUBLIC SCHOOL AND**
3 **PUBLIC HEALTH NURSES**

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

5 "**SECTION 6.9.(b)** By ~~May~~December 1, 2012, the Fiscal Research Division shall report
6 to the House and Senate Appropriations Committees."
7

8 **VOICE INTEROPERABILITY PLAN FOR EMERGENCY RESPONSE (VIPER)**
9 **SYSTEM**

10 **SECTION 6.3.(a)** It is the intent of the General Assembly to continue to support
11 development and implementation of the State's Voice Interoperability Plan for Emergency
12 Response (VIPER) system in subsequent fiscal years. The Department is hereby authorized to
13 commit or spend up to ten million dollars (\$10,000,000) during the 2011-2013 fiscal biennium
14 to continue development and implementation of the State's VIPER system. Notwithstanding
15 any other provision of law, State agencies, offices, commissions, and non-State entities shall
16 not spend more than ten million dollars (\$10,000,000) in State funds from the General Fund for
17 this purpose during the 2011-2013 fiscal biennium. This prohibition shall not be construed to
18 prevent the expenditure of federal funds. This section does not impair or authorize the breach of
19 any contract and instead affects the availability of appropriated funds within the meaning of
20 G.S. 143C-6-8 and the terms of the North Carolina Information Technology Procurement
21 Office General Terms and Conditions for Goods and Related Services related to availability of
22 funds as specified in the applicable contract or contract extension.

23 **SECTION 6.3.(b)** Notwithstanding any other provision of law, on June 30, 2012,
24 fifty-four million six hundred thousand dollars (\$54,600,000) from Account Code 534528 of
25 Budget Code 14900 in Fund 1850-968 shall revert to the General Fund.

26 **SECTION 6.3.(c)** The Department of Public Safety shall (i) coordinate with the
27 federal First Responder Network Authority in continuing to develop and implement the VIPER
28 system; (ii) ensure that the system complies with any standards issued by the Authority; and
29 (iii) ensure that the VIPER system is interoperable with any communications system
30 implemented pursuant to those standards.

31 **SECTION 6.3.(d)** The Department of Public Safety shall report to the Joint
32 Legislative Committee on Information Technology and the Joint Legislative Oversight
33 Committee on Justice and Public Safety on a quarterly basis on the progress of the State's
34 VIPER system.
35

36 **EXTEND MATURITY DATE/GLOBAL TRANSPARK**

37 **SECTION 6.4.** G.S. 147-69.2(b)(11), as amended by Section 7 of S.L. 2005-144,
38 Section 2 of S.L. 2005-201, Section 28.17 of S.L. 2005-276, Section 27.7 of S.L. 2007-323,
39 Section 25.2 of S.L. 2009-451, Section 6.10(a) of S.L. 2011-145, and Section 4(b) of S.L.
40 2011-340, reads as rewritten:

41 "(b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated
42 in subsection (a) of this section in excess of the amount required to meet the current needs and
43 demands on such funds. The State Treasurer may invest the funds as provided in this
44 subsection. If an investment was authorized by this subsection at the time the investment was
45 made or contractually committed to be made, then none of the percentage or other limitation on
46 investments set forth in this subsection shall be construed to require the State Treasurer to
47 subsequently dispose of the investment or fail to honor any contractual commitments as a result
48 of changes in market values, ratings, or other investment qualifications.
49

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

1 Fund harmless from the loss by appropriating to the Escheat Fund funds
2 equivalent to the loss.

3 If any part of the property owned by the North Carolina Global
4 TransPark Authority now or in the future is divested, proceeds of the
5 divestment shall be used to fulfill any unmet obligations on an investment
6 made pursuant to this subdivision.

7"
8

9 NATIONAL MORTGAGE SETTLEMENT APPROPRIATIONS

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

14 **SECTION 6.5.(b)** Settlement funds received by the State pursuant to the Consent
15 Judgment in *U.S. v. Bank of America*, Civil Action No. 12-CV-0361, dated April 4, 2012, shall
16 be deposited and credited in accordance with the North Carolina Constitution and Chapter
17 143C of the General Statutes and are appropriated for the 2012-2013 fiscal year as follows:

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

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

41 **SECTION 6.5.(d)** Nothing in this section is intended to be in conflict with the
42 mandatory provisions of the Consent Judgment.
43

44 EXECUTIVE ORDER NO. 115/HURRICANE IRENE DISASTER LOANS

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

52 **SECTION 6.7.(b)** If Pamlico or Tyrrell County allows the flood insurance
53 coverage required in subsection (a) of this section to lapse at any time, that county shall be
54 liable for the full repayment of funds borrowed under Executive Order No. 115.
55

56 AUTHORIZE CERTAIN MODIFICATIONS OF THE CERTIFIED BUDGET

57 **SECTION 6.9.** Section 6.1(b) of S.L. 2011-145, as amended by Section 5 of S.L.
58 2011-391, reads as rewritten:

"SECTION 6.1.(b) For the 2011-2013 fiscal biennium, and notwithstanding the provisions of Chapter 143C of the General Statutes or any other provision of law, the certified budget for each State agency shall reflect only the total of all appropriations enacted for each State agency by the General Assembly in this act as modified by this act; therefore, the Director of the Budget shall modify the certified budget only to reflect the following actions and only to the extent that they are authorized by this act:

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

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

ESTABLISHING OR INCREASING FEES UNDER THIS ACT

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

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

CONSULTATION WITH A LEGISLATIVE COMMITTEE

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

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

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

- ...
- (15) Requirement to consult with a committee or commission of the General Assembly. – All words purporting to require an individual or other entity to consult with a committee or commission of the General Assembly before taking an action shall be construed to require the entity to do all of the following:
 - a. Submit a report of the action under consideration to the chairs and staff of the committee or commission. The report shall include all information required by statute and the rules of that committee or commission. The staff of the committee or commission shall make the report available electronically to the members of the committee or commission and to the public.
 - b. Appear at a meeting of the committee or commission at which the matter is heard. Unless another period of time is specified by statute, the requirement to appear is satisfied if the committee or commission does not have a meeting at which the matter is heard within 90 days of receiving the required submission."

MEDICAID PROGRAM DISCLOSURES TO THE FISCAL RESEARCH DIVISION

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

"§ 120-32.01. Information to be supplied.

(a) Every State department, State agency, or State institution shall furnish the Legislative Services Office and the Research, Fiscal Research, Program Evaluation, and Bill Drafting Divisions any information or records requested by them and access to any facilities and personnel requested by them. Except when accessibility is prohibited by a federal statute, federal regulation, or State statute, every State department, State agency, or State institution shall give the Legislative Services Office and these divisions access to any data base or stored information maintained by computer, telecommunications, or other electronic data processing

1 equipment, whether stored on tape, disk, or otherwise, and regardless of the medium for storage
2 or transmission.

3 (b) Notwithstanding subsection (a) of this section, access to the BEACON/HR payroll
4 system by the Research and Bill Drafting Divisions shall only be through the Fiscal Research
5 Division and access to the system by the Program Evaluation Division shall only be through the
6 Division Director and two employees of the Division designated by the Division Director.

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

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

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

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

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

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

42 43 **STATE CONTRACTS SHALL INCLUDE A CLAUSE MAKING THEM SUBJECT TO** 44 **THE AVAILABILITY OF APPROPRIATIONS**

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

46 **"§ 143C-6-8. State agencies may incur financial obligations only if authorized by the**
47 **Director of the Budget and subject to the availability of appropriated funds.**

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

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

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

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

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 appropriate additional funds for 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 16,000
IT Fund Balance June 30	\$ 792,000	\$0 582,975
<u>Transfer to General Fund</u>		<u>\$(750,000)</u>
Total Funds Available	\$5,275,142	<u>\$6,183,142</u> <u>\$6,007,117</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 \$826,148
Enterprise Project Management Office	\$1,473,285	\$1,473,285 \$1,403,285
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	\$ 0 100,000
ITS Overhead Reduction	\$ (91,486)	\$ (91,486)
Subtotal Information Technology Operations	\$3,693,702	\$3,593,702 <u>\$3,730,630</u>
Information Technology Projects		

1	State Portal	\$ 0	\$ 0
2	IT Consolidation	\$ 776,440	\$784,440 \$471,487
3	Transfer to OSC for E-Forms	\$ 500,000	\$ 500,000
4	Subtotal Information Technology Projects	\$1,276,440	\$1,284,440 \$971,487
5	Data Integration License Funding Transfer to State		
6	Agencies	\$ 200,000	\$ 1,200,000
7	Position Transfer to Office of State		
8	Budget and Management	\$ 105,000	\$ 105,000
9	Total	\$5,275,142	\$6,183,142\$6,007,117

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.

1 **SECTION 6A.3.(d)** Funding. – Of funds generated from increased revenues or
2 cost savings as compared to the baselines established by subdivision (1) of subsection (c) of
3 this section, in the General Fund, the Highway Fund, and that State portion of the
4 Unauthorized Substance Tax collections of the Special Revenue Fund, the sum of up to a total
5 of sixteen million dollars (\$16,000,000) may be used by the Office of State Budget and
6 Management to make purchases related to the implementation of the additional public-private
7 arrangement authorized by this section, including payment for services from non-State entities.

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

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

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

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

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

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

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

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

56 **"SECTION 6A.5.(c)** There is established within the Department of Revenue the Oversight
57 Committee for reviewing and approving the benefits measurement methodology and
58 calculation process. The Oversight Committee shall review and approve in writing all contracts,
59 including change orders, amendments to contracts, and addendums to contracts, before they are

1 executed under this section. This shall include (i) details of each public-private contract, (ii) the
 2 benefits from each contract, and (iii) a comprehensive forecast of the benefits of using
 3 public-private agreements to implement TIMS and the additional PDP components, including
 4 the measurement process established for the Secretary of Revenue. The Oversight Committee
 5 shall approve all of the fund transfers for this project. Within five days of entering into a
 6 contract, the Department shall provide copies of each contract and all associated information to
 7 the Joint Legislative Oversight Committee on Information Technology, the Chairs of the House
 8 of Representatives and Senate Committees on Appropriations, and the Fiscal Research
 9 Division.

10 The members of the Committee shall include the following:

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

21 The State Budget Director shall serve as chair of the Committee. The Committee shall set
 22 its meeting schedule and adopt its rules of operation by majority vote. A majority of the
 23 members constitutes a quorum. Vacancies shall be filled by the appointing authority.
 24 Administrative support staff shall be provided by the Department of Revenue. Members of the
 25 Committee shall receive reimbursements for subsistence and travel expenses as provided by
 26 Chapter 138 of the General Statutes. The Committee shall terminate on ~~June 30, 2015~~ June 30,
 27 2018.

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

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

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

52
 53 **INFORMATION TECHNOLOGY PERSONAL SERVICES**
 54 **CONTRACTS/REPORTING CHANGE**

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

56 "**SECTION 6A.6.(c)** Beginning ~~August 1, 2011~~, August 1, 2012, and ~~monthly~~ quarterly
 57 thereafter, each State agency, department, and institution employing information technology
 58 personal services contractors, or contract personnel performing information technology
 59 functions, shall provide a detailed report on those contracts to the Office of State Budget and

1 Management, the Office of State Personnel, the Office of Information Technology Services, the
2 Joint Legislative Oversight Committee on Information Technology, and the Fiscal Research
3 Division of the General Assembly. Each State agency's report shall include at least the
4 following:

- 5 (1) For each contracted information technology position:
 - 6 a. The title of the position, a brief synopsis of the essential functions of
7 the position, and how long the position has existed.
 - 8 b. The name of the individual filling the position and the vendor
9 company, if any, that regularly employs that individual.
 - 10 c. The type of contract, start date, and termination date.
 - 11 d. The length of time that the individual filling the contracted position
12 has been employed by the State as a contractor in any position.
 - 13 e. The contracted position salary or hourly rate, the number of hours per
14 year, and the total annualized cost of the contracted position.
 - 15 f. The salary and benefits cost for a State employee performing the
16 same function.
 - 17 g. The purchase order number for the position.
 - 18 h. Whether the position can be converted to a State employee position.
19 This determination will be certified by the State Information
20 Technology Purchasing Office.
 - 21 i. When the agency anticipates converting the position to a State
22 employee.
- 23 (2) The total annual cost for information technology contractors and the total
24 annual salary and benefits cost for filling the contract positions with State
25 employees.
- 26 (3) A determination of whether the information technology functions performed
27 by the contractor can be performed by State employees.
- 28 (4) All information required by this subsection related to information
29 technology contractors regardless of the contracting source."
30

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

33 **SECTION 6A.5.(a)** Section 6A.8 of S.L. 2011-145, as amended by Section 11(e)
34 of S.L. 2011-391, reads as rewritten:

35 **"ITS/INTERNAL SERVICE FUND RATE ESTABLISHMENT/CASH MANAGEMENT**

36 **"SECTION 6A.8.(a)** For each year of the 2011-2013 fiscal biennium, the 2011-2012 fiscal
37 year, receipts for the Information Technology Internal Service Fund shall not exceed one
38 hundred ninety million dollars (\$190,000,000), excluding a ~~60-day~~ 40-day balance for
39 contingencies. Notwithstanding G.S. 147-33.88, for the 2012-2013 fiscal year, all receipts,
40 regardless of the source, including agency allocations and fund-to-fund transfers, for the
41 Information Technology Internal Service shall not exceed one hundred seventy-five million
42 dollars (\$175,000,000). Rates established by the Office of State Budget and Management
43 (OSBM) to support the IT Internal Service Fund shall be based on this the required fund limit.
44 Established rates shall be adjusted within 30 days in the event the fund exceeds the prescribed
45 limit. In the event that an increase in receipts for the IT Internal Service Fund is required, the
46 Office of Information Technology Services State Chief Information Officer may implement the
47 increase only after consultation with the Joint Legislative Commission on Governmental
48 Operations. Overhead applied to IT Internal Service Fund rates shall not exceed ten percent
49 (10%) of the rate.

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

56 **"SECTION 6A.8.(b)** Beginning with State fiscal year 2012-2013, rates shall be set to
57 support a specific service for which an agency is being charged. Overhead charges to agencies
58 must be consistently applied and must not exceed industry standards. Rate increases shall

1 require approval of the OSBM. Rate reductions shall be immediately implemented following
2 notification of the OSBM."

3 ~~"SECTION 6A.8.(e) Beginning October 1, 2011, the State Chief Information Officer shall~~
4 ~~submit a quarterly report to the Joint Legislative Commission on Governmental Operations and~~
5 ~~the Fiscal Research Division on collections for, expenditures from, and the balance of the IT~~
6 ~~Internal Service Fund. The report shall include all expenditures made from the fund to support~~
7 ~~the Office of Information Technology Services and the activities of the State Chief Information~~
8 ~~Officer."~~

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

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

15 **SECTION 6A.5.(c)** Agency IT Expenses Cannot Exceed Appropriations. – During
16 the 2012-2013 fiscal year, no State agency shall be charged more for information technology
17 services provided by the Office of the State Chief Information Officer or the Office of
18 Information Technology Services than the lower of the amount charged or the amount actually
19 paid less refunds from available appropriations for the 2011-2012 fiscal year, unless the
20 increase is agreed to in writing by the agency and the Office of the State Chief Information
21 Officer.

22 The Information Technology Internal Service Fund charges to the Office of the
23 State Controller shall be reduced by two million three hundred seventy-nine thousand dollars
24 (\$2,379,000) for the 2012-2013 fiscal year. This funding shall be used to support the
25 development and implementation of the Criminal Justice Law Enforcement Automated Data
26 Services (CJLEADS).

27 The Information Technology Internal Service Fund charges to the Department of
28 Public Instruction shall be reduced by eight hundred fifty thousand dollars (\$850,000) for the
29 2012-2013 fiscal year. This funding shall be used to support the development and
30 implementation of the Education Value-Added Assessment System (EVAAS).

31 **SECTION 6A.5.(c1)** To offset the transfer in this act of fourteen million dollars
32 (\$14,000,000) from the Information Technology Internal Service Fund to the State Controller,
33 the sum of two million eight hundred thousand dollars (\$2,800,000) shall be transferred to
34 agencies utilizing federal funding for IT Internal Service Fund payments to provide the
35 appropriate refunds to the federal government.

36 **SECTION 6A.5.(d)** Limitation on Charges for Alternate Services. – In the event
37 that the State Chief Information Officer discontinues or privatizes a service during the
38 2012-2013 fiscal year, if the agencies choose to use an alternate service provided by the Office
39 of Information Technology Services or their vendor, the amount that State agencies are charged
40 for alternate services, inclusive of any service charge the State Chief Information Officer adds
41 to the vendor charge, shall not exceed the IT Internal Service Fund charges for the same service
42 in effect on May 31, 2012.

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

- 47 (1) How close the receipts of the Information Technology Internal Service are to
48 the limits set forth in Section 6A.8(a) of S.L. 2011-145.
- 49 (2) The rates established by the Office of State Budget and Management
50 (OSBM) to support the IT Internal Service Fund.
- 51 (3) The amount charged to date to each State agency for services provided by
52 the Office of the State Chief Information Officer or the Office of
53 Information Technology Services during the 2012-2013 fiscal year.
- 54 (4) The amount that State agencies are charged for alternate services in the event
55 that a service is discontinued or privatized during the 2012-2013 fiscal year,
56 inclusive of any service charge the State Chief Information Officer adds to
57 the vendor charge.

58 INFORMATION TECHNOLOGY PRIVATIZATION

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

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

11 (1) The establishment and presentation to the Joint Legislative Oversight
12 Committee on Information Technology of a budget for the Information
13 Technology Internal Service Fund with rates for services that accurately
14 reflect costs.

15 (2) The development and implementation of an accurate, comprehensive asset
16 management system for executive branch agencies and report to the Joint
17 Legislative Oversight Committee on Information Technology the results of
18 the implementation.

19 (3) Issuance of a new request for proposal to solicit bids for any privatization
20 initiative.

21 (4) Consultation with and approval from the State Treasurer.

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

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

28 (1) Develop a detailed plan for implementing any privatization initiative to
29 include the following:

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

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

50 (2) Have a detailed plan in place, to include associated costs and sources of
51 funding, to return the function to State control in the event privatization fails
52 to provide anticipated cost-savings or required service levels.

53 (3) Privatize only those individual functions where verifiable market data
54 collected after January 1, 2012, by a disinterested third-party consultant
55 shows that privatization will result in cost-savings to the State and there is
56 no data identifying alternatives that generate greater savings, ensuring that
57 agencies receive at a minimum the same level of service and functionality as
58 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.

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

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

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

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

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

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

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

MOBILE ELECTRONIC DEVICE REPORTING CHANGE

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

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

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

Beginning ~~October 1, 2011~~, October 1, 2012, each agency shall report ~~quarterly~~ annually to the Chairs of the House of Representatives Committee on Appropriations and the House of Representatives Subcommittee on General Government, the Chairs of the Senate Committee on Appropriations and the Senate Appropriations Committee on General Government and Information Technology, the Joint Legislative Oversight Committee on Information Technology, the Fiscal Research Division, and the Office of State Budget and Management on the following:

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

ENHANCE ENTERPRISE-LEVEL BUSINESS INTELLIGENCE TO INCREASE EFFICIENCY IN STATE GOVERNMENT

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

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

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

- 1 (2) Application to State government. – The initiative shall include all State
2 agencies, departments, and institutions, including The University of North
3 Carolina.
4 (3) Governance. – The State Controller shall lead the initiative established
5 pursuant to this section. The Chief Justice of the North Carolina Supreme
6 Court and the Legislative Services Commission each shall designate an
7 officer or agency to advise and assist the State Controller with respect to
8 implementation of the initiative in their respective branches of government.
9 The judicial and legislative branches shall fully cooperate in the initiative
10 mandated by this section in the same manner as is required of State agencies.

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

- 12 (1) GBICC established. – There is established in the Office of the State
13 Controller the Government Business Intelligence Competency Center
14 (GBICC). GBICC shall assume the work, purpose, and resources of the
15 current data integration effort in the Office of the State Controller and shall
16 otherwise advise and assist the State Controller in the management of the
17 initiative. The State Controller shall make any organizational changes
18 necessary to maximize the effectiveness and efficiency of GBICC.
19 (2) Powers and duties of the GBICC. – The State Controller shall, through the
20 GBICC, do all of the following:
21 a. Continue and coordinate ongoing enterprise data integration efforts,
22 including:
23 1. The deployment, support, technology improvements, and
24 expansion for CJLEADS.
25 2. The pilot and subsequent phase initiative for NC FACTS.
26 3. Individual-level student data and workforce data from all
27 levels of education and the State workforce.
28 4. Other capabilities developed as part of the initiative.
29 b. Identify technologies currently used in North Carolina that have the
30 capability to support the initiative.
31 c. Identify other technologies, especially those with unique capabilities,
32 that could support the State's business intelligence effort.
33 d. Compare capabilities and costs across State agencies.
34 e. Ensure implementation is properly supported across State agencies.
35 f. Ensure that data integration and sharing is performed in a manner
36 that preserves data privacy and security in transferring, storing, and
37 accessing data, as appropriate.
38 g. Immediately seek any waivers and enter into any written agreements
39 that may be required by State or federal law to effectuate data sharing
40 and to carry out the purposes of this section.
41 h. Coordinate data requirements and usage for State business
42 intelligence applications in a manner that (i) limits impacts on
43 participating State agencies as those agencies provide data and
44 business knowledge expertise and (ii) assists in defining business
45 rules so the data can be properly used.
46 i. Recommend the most cost-effective and reliable long-term hosting
47 solution for enterprise-level State business intelligence as well as
48 data integration, notwithstanding Section 6A.2(f) of S.L. 2011-145.

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

- 51 (1) Phases of the initiative. – The initiative shall commence no later than August
52 1, 2012, and shall be phased in accordance with this subsection. The
53 initiative shall cycle through these phases on an ongoing basis:
54 a. Phase I requirements. – In the first phase, the State Controller
55 through GBICC shall:
56 1. Inventory existing State agency business intelligence projects,
57 both completed and under development.
58 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

1 to secure any matching funds or other resources to assist in funding this
2 initiative.

- 3 (3) Use of savings. – Savings resulting from the cancellation of projects,
4 software, and licensing, as well as any other savings from the initiative, shall
5 be returned to the General Fund and shall remain unexpended and
6 unencumbered until appropriated by the General Assembly in a subsequent
7 fiscal year. It is the intent of the General Assembly that expansion of the
8 initiative in subsequent fiscal years be funded with these savings and that the
9 General Assembly appropriate funds for projects in accordance with the
10 priorities identified by the Office of the State Controller in Phase I of the
11 initiative.

12 **SECTION 6A.7A.(e) Reporting. –**

- 13 (1) Routine reports. – The Office of the State Controller shall submit and
14 present the following reports:

- 15 a. By no later than October 1, 2012, a written report on the
16 implementation of Phase I of the initiative and the plan developed as
17 part of that phase to the Chairs of the House of Representatives
18 Appropriations and Senate Base Budget/Appropriations Committees,
19 to the Joint Legislative Oversight Committee on Information
20 Technology, and to the Fiscal Research Division of the General
21 Assembly. The State Controller shall submit this report prior to
22 implementing any improvements, expending funding for expansion
23 of existing business intelligence efforts, or establishing other projects
24 as a result of its evaluations.
25 b. By February 1, 2013, and quarterly thereafter, a written report
26 detailing progress on, and identifying any issues associated with,
27 State business intelligence efforts.

- 28 (2) Extraordinary reports. – The Office of the State Controller shall report the
29 following information as needed:

- 30 a. Any failure of a State agency to provide information requested
31 pursuant to this section. The failure shall be reported to the Joint
32 Legislative Committee on Information Technology and to the Chairs
33 of the House of Representatives Appropriations and Senate Base
34 Budget/Appropriations Committees.
35 b. Any additional information to the Joint Legislative Commission on
36 Governmental Operations and the Joint Legislative Oversight
37 Committee on Information Technology that is requested by those
38 entities.

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

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

- 42 a. Grant the Office of the State Controller access to all information
43 required to develop and support State business intelligence
44 applications pursuant to this section. The State Controller and the
45 GBICC shall take all necessary actions and precautions, including
46 training, certifications, background checks, and governance policy
47 and procedure, to ensure the security, integrity, and privacy of the
48 data in accordance with State and federal law and as may be required
49 by contract.
50 b. Provide complete information on the State agency's information
51 technology, operational, and security requirements.
52 c. Provide information on all of the State agency's information
53 technology activities relevant to the State business intelligence effort.
54 d. Forecast the State agency's projected future business intelligence
55 information technology needs and capabilities.
56 e. Ensure that the State agency's future information technology
57 initiatives coordinate efforts with the GBICC to include planning and
58 development of data interfaces to incorporate data into the initiative
59 and to ensure the ability to leverage analytics capabilities.

- 1 f. Provide technical and business resources to participate in the
2 initiative by providing, upon request and in a timely and responsive
3 manner, complete and accurate data, business rules and policies, and
4 support.
5 g. Identify potential resources for deploying business intelligence in
6 their respective State agencies and as part of the enterprise-level
7 effort.
8 h. Immediately seek any waivers and enter into any written agreements
9 that may be required by State or federal law to effectuate data sharing
10 and to carry out the purposes of this section, as appropriate.

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

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

- 15 a. With respect to criminal information, and to the extent allowed by
16 federal law, a criminal justice agency (CJA), as defined under
17 Criminal Justice Information Services (CJIS) Security Policy. The
18 State CJIS Systems Agency (CSA) shall ensure that CJLEADS
19 receives access to federal criminal information deemed to be
20 essential in managing CJLEADS to support criminal justice
21 professionals.
22 b. With respect to health information covered under the Health
23 Insurance Portability and Accountability Act of 1996 (HIPAA), as
24 amended, and to the extent allowed by federal law:
25 1. A business associate with access to protected health
26 information acting on behalf of the State's covered entities in
27 support of data integration, analysis, and business
28 intelligence.
29 2. Authorized to access and view individually identifiable health
30 information, provided that the access is essential to the
31 enterprise fraud, waste, and improper payment detection
32 program or required for future initiatives having specific
33 definable need for the data.
34 c. Authorized to access all State and federal data, including revenue and
35 labor information, deemed to be essential to the enterprise fraud,
36 waste, and improper payment detection program or future initiatives
37 having specific definable need for the data.
38 d. Authorized to develop agreements with the federal government to
39 access data deemed to be essential to the enterprise fraud, waste, and
40 improper payment detection program or future initiatives having
41 specific definable need for such data.

- 42 (2) Release of information. – The following limitations apply to (i) the release
43 of information compiled as part of the initiative, (ii) data from State agencies
44 that is incorporated into the initiative, and (iii) data released as part of the
45 implementation of the initiative:

- 46 a. Information compiled as part of the initiative. – Notwithstanding the
47 provisions of Chapter 132 of the General Statutes, information
48 compiled by the State Controller and the GBICC related to the
49 initiative may be released as a public record only if the State
50 Controller, in that officer's sole discretion, finds that the release of
51 information is in the best interest of the general public and is not in
52 violation of law or contract.
53 b. Data from State agencies. – Any data that is not classified as a public
54 record under G.S. 132-1 shall not be deemed a public record when
55 incorporated into the data resources comprising the initiative. To
56 maintain confidentiality requirements attached to the information
57 provided to the State Controller and GBICC, each source agency
58 providing data shall be the sole custodian of the data for the purpose

1 of any request for inspection or copies of the data under Chapter 132
2 of the General Statutes.

- 3 c. Data released as part of implementation. – Information released to
4 persons engaged in implementing the State's business intelligence
5 strategy under this section that is used for purposes other than official
6 State business is not a public record pursuant to Chapter 132 of the
7 General Statutes.

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

9 "(d) Nothing in this section shall:

- 10 (1) Limit the requirements or obligations under any other section of this Article,
11 including, but not limited to, G.S. 75-62 and G.S. 75-65.
12 (2) Apply to the collection, use, or release of personal information for a purpose
13 permitted, authorized, or required by any federal, State, or local law,
14 regulation, or ordinance.
15 (3) Apply to data integration efforts to implement the State's business
16 intelligence strategy as provided by law or under contract."
17

18 STATE PRIVATE CLOUD

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

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

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

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

- 32 (1) Requirements for:
33 a. The State to have complete control and ownership of all components
34 of the private cloud, including hardware, software, network
35 infrastructure, security, and data.
36 b. All components of the private cloud to be maintained at State-owned,
37 State-operated facilities.
38 c. The private cloud to fully comply with all legislative, regulatory,
39 policy, and security requirements that apply to State agencies and
40 entities conducting business with the State.
41 d. The State's existing information technology infrastructure to be used
42 to support the private cloud.
43 e. Documentation of any redundancy built into the infrastructure to
44 support requirements for increased availability and disaster recovery.
45 f. A service-centric approach to computing resources. Users of
46 computing resources shall be able to efficiently access powerful,
47 predefined computing environments based on their requirements.
48 g. A self-service ability to provision and deprovision, as requested by
49 users, while maintaining high levels of security.
50 h. A fully functional, efficient, fair system to bill State agencies for
51 private cloud usage. This requirement includes mechanisms to
52 capture usage data and enable chargeback integration within the
53 billing system.
54 i. A plan to manage infrastructure resources that can be scaled in
55 response to State agency requirements.
56 j. An inventory of all potential resources, both public and private,
57 available to support the development, implementation, operation, and
58 management of the private cloud, and the costs and benefits
59 associated with each.

- 1 (2) A detailed timeline, documentation of agency requirements, identification
2 and resolution of security issues, and an assessment of the impact on any
3 ongoing projects or current applications.
4 (3) Identification of costs associated with developing the private cloud.
5 (4) Identification and documentation of private cloud management and
6 monitoring tools to facilitate the maintenance of complete control of private
7 cloud resources; automate provisioning, deprovisioning, and scheduling; and
8 maintain system capacity.
9 (5) Identification of ways to improve the private cloud's supporting
10 infrastructure.
11 (6) Identification of potential sources of savings to support development,
12 implementation, and maintenance of the State private cloud.

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

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

19 **SECTION 6A.9.(f)** Access by Private Vendors. – If the State Chief Information
20 Officer provides to a potential vendor any information or access to State facilities in connection
21 with or anticipation of the private cloud project described in this section, the State Chief
22 Information Officer shall provide the same information or access to all potential vendors. The
23 State Chief Information Officer shall certify the Officer's compliance with this subsection to the
24 General Assembly.
25

26 ENTERPRISE GRANTS MANAGEMENT

27 **SECTION 6A.10.** Section 6A.7 of S.L. 2011-145, as amended by Section 11(d) of
28 S.L. 2011-391, reads as rewritten:

29 "STATE INFORMATION TECHNOLOGY CONSOLIDATION

30
31 ~~"SECTION 6A.7.(b) Beginning July 1, 2011, the State CIO shall plan and implement an
32 enterprise level grants management system. Similar systems currently under development may
33 be suspended by the State CIO with funding reprogrammed to support development of the
34 enterprise level grants management system.~~

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

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

46 ~~The Committee shall:~~

- 47 ~~(1) Establish priorities for agency projects.~~
48 ~~(2) Establish priorities for development and implementation of system~~
49 ~~capabilities.~~
50 ~~(3) Review and approve system requirements.~~
51 ~~(4) Review and approve plans associated with system development and~~
52 ~~implementation.~~
53 ~~(5) Review and approve costs and funding sources for system development and~~
54 ~~implementation.~~
55 ~~(6) Ensure system benefits are realistic and realized.~~

56 ~~"SECTION 6A.7.(b2) By August 1, 2013, the Office of State Budget and Management
57 shall provide a detailed plan to the Joint Legislative Oversight Committee on Information
58 Technology and the Fiscal Research Division for the development and implementation of the
59 enterprise grants management system, including a time line, cost for each participating agency,~~

1 a comprehensive business plan, and information on the anticipated benefits of system
2 implementation.

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

- 7 (1) Agencies currently participating in the system.
- 8 (2) Specific requirements for each agency project included in the system
9 development.
- 10 (3) Cost and funding sources for each agency participating in the system.
- 11 (4) Status of each agency project included in the system.
- 12 (5) Comparison of the status of each project to the time line, with an explanation
13 of any differences.
- 14 (6) Detailed descriptions of milestones to be completed that month and the
15 following month.
- 16 (7) Any changes in project cost for any participating agency, the reasons, and
17 the source of funding.
- 18 (8) Actual expenditures by agency, to date and during that month.
- 19 (9) Any potential funding shortfalls and their impact.
- 20 (10) Any issues identified during the month, with a corrective action plan and a
21 time line for resolving them.
- 22 (11) Impact of any issues on schedule or cost.
- 23 (12) Any changes to agency projects or the system as a whole.
- 24 (13) Any change requests and their cost.

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

29 "**SECTION 6A.7.(b5)** In coordination with the State CIO, the Department of Health and
30 Human Services shall develop a plan to implement a single case management system
31 throughout that Department, beginning in the 2012-2013 fiscal year, and shall report to the
32 Joint Legislative Oversight Committee on Information Technology by February 1, 2012, on its
33 initiatives to implement the system. The report shall include a detailed time line for completion
34 and an explanation of the costs associated with case management consolidation.

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

41 STATE PORTAL IMPLEMENTATION/OPERATION

42 **SECTION 6A.12.(a)** The Office of the State Chief Information Officer (State CIO)
43 shall plan, develop, implement, and operate a Statewide electronic portal (i) to increase the
44 convenience of members of the public in conducting online transactions with, and obtaining
45 information from, State government and (ii) to facilitate their interactions and communications
46 with government agencies. No contract for the implementation, operation, or funding of the
47 portal shall be signed prior to February 1, 2013.

48 **SECTION 6A.12.(b)** By February 1, 2013, the State CIO shall report to the Joint
49 Legislative Oversight Committee on Information Technology on the following:

- 50 (1) A detailed plan for development and implementation of the Statewide
51 electronic portal, to include, at a minimum:
 - 52 a. A list of anticipated services to be implemented during the
53 2013-2015 fiscal biennium, including a time line for deployment of
54 each service.
 - 55 b. A written assessment of the potential impact on services and agency
56 operations from each potential participating agency, including the
57 impact on the collection and distribution of fees and other service
58 charges.

- 1 c. Any requirements for access to, or for use of, State data and any
2 anticipated uses, to include any vendor use of data that does not
3 directly support State activities.
4 d. A means to measure and report customer satisfaction for each service
5 provided.
6 (2) A financial model including:
7 a. The amount charged per transaction for each service by both the
8 vendor and the State and the number of anticipated transactions for
9 the next calendar year.
10 b. Anticipated gross revenue from each service, along with the amount
11 to be remitted to the vendor and the amount to be remitted to the
12 State.
13 c. Methodology for allocation of receipts to the vendor and to the State.
14 d. Any other anticipated use of State data by the vendor and the amount
15 of revenue the vendor anticipates collecting.
16 e. Any receipts remitted to the State by the vendor.
17 f. Services provided with no associated fee.
18 g. Any potential impact on current fees collected by State agencies.

19 **SECTION 6A.12.(c)** Beginning January 31, 2014, and then annually thereafter, the
20 State CIO shall report to the General Assembly and to the Fiscal Research Division on the
21 following information:

- 22 (1) Services currently provided and associated transaction volumes or other
23 relevant indicators of utilization by user type.
24 (2) New services added during the previous year.
25 (3) Services added that are currently available in other states.
26 (4) The total amount collected for each service.
27 (5) The total amount remitted to the State for each service.
28 (6) The total amount remitted to the vendor for each service.
29 (7) Any other use of State data by the vendor and the total amount of revenue
30 collected per each use and in total.
31 (8) Customer satisfaction with each service.
32 (9) Any other issues associated with the provision of each service.

33 **SECTION 6A.12.(d)** The State CIO shall consult with the Joint Legislative
34 Oversight Commission on Governmental Operations and the Joint Legislative Oversight
35 Committee on Information Technology prior to implementing any new portal service fee.

36 **SECTION 6A.12.(e)** There shall be a convenient, free alternative for any online
37 service provided.

38 **SECTION 6A.12.(f)** Participation by State agencies in the portal shall be
39 voluntary.

40 **SECTION 6A.12.(g)** The State portal project shall meet all requirements for
41 project management established by the State CIO. Nothing in this section shall exempt the
42 State portal project from the laws governing State information technology and purchasing.

43 **SECTION 6A.12.(h)** There is established in the Office of the State CIO the
44 Statewide Portal Committee (Committee). The Committee shall review services proposed for
45 inclusion in the State portal. The Committee shall have approval authority for services and
46 applications not requiring a fee or imposing any cost on any State or local agency or anyone
47 doing business with the State.

48 The Committee shall be composed of seven members as follows:

- 49 (1) Two members appointed by the Governor.
50 (2) Two members appointed by the General Assembly, as recommended by the
51 Speaker of the House of Representatives.
52 (3) Two members appointed by the General Assembly, as recommended by the
53 President Pro Tempore of the Senate.
54 (4) The State Controller shall be designated as the chair.

55 Any vacancy on the Committee shall be filled by the appointing authority. Members
56 of the Committee shall receive per diem, subsistence, and travel allowances in accordance with
57 G.S. 120-3.1, 138-5, or 138-6, as appropriate. Adequate staff shall be provided to the Office of
58 the State CIO. The Committee may call upon any department, agency, institution, or officer of
59 the State or any political subdivision thereof for facilities, data, or other assistance.

1 **SECTION 6A.12.(i)** Notwithstanding G.S. 114-2.3, the Office of the State CIO
2 shall engage the services of private counsel with the pertinent information technology and
3 computer law expertise to negotiate and review contracts associated with the State portal.

4 **SECTION 6A.12.(j)** Section 6A.10 of S.L. 2011-145, as amended by Section 12(b)
5 of S.L. 2011-391, is repealed.

6 7 **PART VII. PUBLIC SCHOOLS**

8 9 **FUNDS FOR CHILDREN WITH DISABILITIES**

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

18 19 **FUNDS FOR ACADEMICALLY GIFTED CHILDREN**

20 **SECTION 7.2.** The State Board of Education shall allocate additional funds for
21 academically or intellectually gifted children on the basis of one thousand two hundred
22 twenty-three dollars and ninety-three cents (\$1,223.93) per child for fiscal year 2012-2013. A
23 local school administrative unit shall receive funds for a maximum of four percent (4%) of its
24 2012-2013 allocated average daily membership, regardless of the number of children identified
25 as academically or intellectually gifted in the unit. The dollar amounts allocated under this
26 section for academically or intellectually gifted children shall also adjust in accordance with
27 legislative salary increments, retirement rate adjustments, and health benefit adjustments for
28 personnel who serve academically or intellectually gifted children.

29 30 **SCHOOL IMPROVEMENT PLANS AT RESIDENTIAL SCHOOLS**

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

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

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

53 All school improvement plans shall be, to the greatest extent possible, data driven.
54 School improvement teams shall use the Education Value Added Assessment System
55 (EVAAS), or a compatible and comparable system approved by the State Board of Education,
56 to analyze student data to identify root causes for problems and to determine actions to address
57 them. School improvement plans shall contain clear, unambiguous targets, explicit indicators
58 and actual measures, and expeditious time frames for meeting the measurement standards.

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

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

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

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

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

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

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

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

56 **SCHOOL CALENDAR PILOT PROGRAM**

57 **SECTION 7.4.** The State Board of Education shall establish a school calendar pilot
58 program in the Wilkes County Schools, the Montgomery County Schools, and the Stanly
59

1 County Schools. The purpose of the pilot program is to determine whether and to what extent a
2 local school administrative unit can save money during this extreme fiscal crisis by
3 consolidating the school calendar.

4 Notwithstanding G.S. 115C-84.2(a)(1), the school calendar for the 2012-2013
5 calendar year for the pilot school systems shall include a minimum of 185 days or 1025 hours
6 of instruction covering at least nine calendar months.

7 If the local board of education in a pilot school system adds instructional hours to
8 previously scheduled days under this section, the local school administrative unit is deemed to
9 have a minimum of 185 days of instruction, and teachers employed for a 10-month term are
10 deemed to have been employed for the days being made up and shall be compensated as if they
11 had worked the days being made up.

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

15 16 **RESIDENTIAL SCHOOLS**

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

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

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

26 27 **LIABILITY INSURANCE FOR PUBLIC SCHOOL PERSONNEL**

28 **SECTION 7.9.(a)** Within 60 days of the effective date of this section, the local
29 school administrative units shall provide written notification to all public school employees
30 regarding the coverage provided by the State-funded liability insurance policy for North
31 Carolina public school employees. Notification shall include information regarding policy
32 coverage details, instructions on reporting claims, contact information for additional questions,
33 and instructions on obtaining a copy of the policy.

34 **SECTION 7.9.(b)** From the funds available for liability insurance for public school
35 personnel, the Department of Public Instruction shall distribute additional funds to local school
36 administrative units on the basis of average daily membership in order to implement the
37 requirements of subsection (a) of this section.

38 39 **PILOT COOPERATIVE INNOVATIVE HIGH SCHOOL**

40 **SECTION 7.10.** Notwithstanding G.S. 115C-238.51, the State Board of Education
41 shall approve the establishment of a cooperative innovative high school pilot by the local
42 boards of education of the Davidson County Schools, Thomasville City Schools, and Lexington
43 City Schools and the local board of trustees of Davidson County Community College under
44 Part 9 of Article 16 of Chapter 115C of the General Statutes. The pilot shall be known as the
45 Yadkin Valley Regional Career Academy.

46 47 **CLARIFYING COOPERATIVE INNOVATIVE HIGH SCHOOL STATUTES**

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

49 **"§ 115C-238.50A. Definitions.**

50 The following definitions apply in this Part:

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

53 (1a) Cooperative innovative high school. – A high school approved by the State
54 Board of Education and the applicable governing Board that meets the
55 following criteria:

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

57 b. It partners with an institution of higher education to enable students
58 to concurrently obtain a high school diploma and begin or complete

1 an associate degree program, master a certificate or vocational
 2 program, or earn up to two years of college credit within five years.
 3 c. It is located on the campus of the partner institution of higher
 4 education, unless the governing ~~board~~ Board or the local board of
 5 trustees for a private North Carolina college specifically waives the
 6 requirement through adoption of a formal resolution.

7 (1b) Cooperative innovative high school allotment. – Funds appropriated by the
 8 General Assembly to the Department of Public Instruction to provide
 9 additional resources to approved cooperative innovative high schools.

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

11 (3) ~~Governing board.~~ Board. – ~~The State Board of Education, the State Board of~~
 12 ~~Community Colleges, Colleges or the Board of Governors of The University~~
 13 ~~of North Carolina, or the Board of the North Carolina Independent Colleges~~
 14 ~~and Universities.~~ Carolina.

15 (3a) Local board of education. – A local board as defined in G.S. 115C-5(5) or a
 16 regional school board of directors as defined in G.S. 115C-238.61(5).

17 (4) Local board of trustees. – The board of trustees of a community college,
 18 constituent institution of The University of North Carolina, or private
 19 college located in North Carolina.

20 (5) Partner institution of higher education. – A community college, constituent
 21 institution of The University of North Carolina, or private college located in
 22 North Carolina."

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

24 **"§ 115C-238.51. Application process.**

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

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

28 (1) A description of a program that implements the purposes in
 29 G.S. 115C-238.50.

30 (2) A statement of how the ~~program~~ cooperative innovative high school relates to
 31 the Economic Vision Plan adopted for the economic development region in
 32 which the ~~program~~ cooperative innovative high school is to be located.

33 (3) The facilities to be used by the ~~program~~ cooperative innovative high school
 34 and the manner in which administrative services of the ~~program~~ school are to
 35 be provided.

36 (4) A description of student academic and vocational achievement goals and the
 37 method of demonstrating that students have attained the skills and
 38 knowledge specified for those goals.

39 (5) A description of how the ~~program~~ cooperative innovative high school will be
 40 operated, including budgeting, curriculum, transportation, and operating
 41 procedures.

42 (6) The process to be followed by the ~~program~~ cooperative innovative high
 43 school to ensure parental involvement.

44 (7) The process by which students will be selected for and admitted to the
 45 ~~program~~ cooperative innovative high school.

46 (8) A description of the funds that will be used and a proposed budget for the
 47 first five years of the implementation of the ~~program~~ cooperative innovative
 48 high school. This description shall identify how the average daily
 49 membership (ADM) and full-time equivalent (FTE) students are counted. If
 50 additional funds are requested, a description of how those additional funds
 51 will be used shall be submitted. Additional funds may include the
 52 cooperative innovative high school allotment and tuition payments. For
 53 cooperative innovative high schools that have a community college as their
 54 partner institution of higher education, the proposed budget shall include the
 55 cost of including their students in calculations of budget full-time equivalent
 56 students for the North Carolina Community College System.

57 (9) The qualifications required for individuals employed in the
 58 ~~program~~ cooperative innovative high school.

59 (10) The number of students to be served.

(11) A description of how the ~~program's~~ cooperative innovative high school's effectiveness in meeting the purposes in G.S. 115C-238.50 will be measured.

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

(d) ~~The Boards may approve programs recommended by the joint advisory committee or may approve other programs that were not recommended. The Boards shall approve all applications by June 30 of each year. No application shall be approved unless the State Board of Education and the applicable governing Board find that the application meets the requirements set out in this Part and that granting the application would achieve the purposes set out in G.S. 115C-238.50. Priority shall be given to applications that are most likely to further State education policies, to address the economic development needs of the economic development regions in which they are located, and to strengthen the educational programs offered in the local school administrative units in which they are located.~~

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

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

"§ 115C-238.51A. Approval process.

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

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

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

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

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

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

(1), (2) Repealed by Session Laws 2005-276, s. 7.33(a), effective July 1, 2005.

(3) A private business or organization.

(4) The county board of commissioners in the county in which the ~~program~~ cooperative innovative high school is located.

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

(1) Jointly apply with the local board of education and the local board of trustees to establish a cooperative innovative ~~program~~ high school under this Part.

(2) Be identified in the application.

(3) Sign the written agreement under G.S. 115C-238.53(b)."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) Students in cooperative innovative high schools that have a community college as their partner institution of higher education and were approved under G.S. 115C-238.51A(c) shall be included in calculations of budget full-time equivalent students for the North Carolina Community College System. Students in cooperative innovative high schools that have a

1 community college as their partner institution of higher education and were approved under
 2 G.S. 115C-238.51A(b) shall not be included in calculations of budget full-time equivalent
 3 students for the North Carolina Community College System.

4 (h) The State Board of Education shall reimburse The University of North Carolina for
 5 tuition for courses taken by students at cooperative innovative high schools that have a
 6 constituent institution of The University of North Carolina as their partner institution of higher
 7 education and were approved under G.S. 115C-238.51A(c). Tuition payments shall not exceed
 8 the annual Board of Governors-approved undergraduate resident tuition rate calculated on a per
 9 credit hour basis and shall not include fees. In addition, the cooperative innovative high school
 10 students' credit hours shall be nonfundable under The University of North Carolina Semester
 11 Credit Hour Enrollment Change Funding Model. The State Board of Education shall not
 12 reimburse The University of North Carolina for tuition for courses taken by students at
 13 cooperative innovative high schools that have a constituent institution of The University of
 14 North Carolina as their partner institution of higher education and were approved under
 15 G.S. 115C-238.51A(b).

16 (i) The State Board of Education shall reimburse private North Carolina colleges for
 17 tuition for courses taken by students at cooperative innovative high schools that have a private
 18 North Carolina college as their partner institution of higher education and were approved under
 19 G.S. 115C-238.51A(c). Tuition payments shall not exceed the highest undergraduate resident
 20 rate approved by the Board of Governors for The University of North Carolina constituent
 21 institutions and shall not include fees. The State Board of Education shall not reimburse private
 22 North Carolina colleges for tuition for courses taken by students at cooperative innovative high
 23 schools that have a private North Carolina college as their partner institution of higher
 24 education and were approved under G.S. 115C-238.51A(b)."

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

26 "**§ 115C-238.55. Evaluation of ~~programs~~ cooperative innovative high schools.**

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

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

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

37 NORTH CAROLINA VIRTUAL PUBLIC SCHOOLS

38 **SECTION 7.12.** Section 7.22(k) of S.L. 2011-145 reads as rewritten:

39 "**SECTION 7.22.(k)** ~~The State Board shall use only funds provided through the North~~
 40 ~~Carolina Virtual Public Schools Allotment Formula and the NCVPS enrollment reserve as set~~
 41 ~~forth in this section to fund instructional costs of NCVPS. The only funds that may be used for~~
 42 ~~the instructional costs of NCVPS are the following:~~

- 43 (1) Funds provided through the North Carolina Virtual Public Schools
 44 Allotment Formula.
- 45 (2) Funds provided through the NCVPS enrollment reserve as set forth in this
 46 section.
- 47 (3) Local funds.
- 48 (4) Federal funds.
- 49 (5) Special State Reserve Funds for Children and Youth with Disabilities.
- 50 (6) ADM Contingency Reserve.

51 REPEAL OBSOLETE REPORTS

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

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

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

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

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

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

2
3 **TEACHER/TEACHER ASSISTANT LEAVE ON INSTRUCTIONAL DAYS.**

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

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

17 On a day that pupils are not required to attend school due to inclement weather, but
18 employees are required to report for a workday, a teacher may elect not to report due to
19 hazardous travel conditions and to take an annual vacation day or to make up the day at a time
20 agreed upon by the teacher and the teacher's immediate supervisor or principal. On a day that
21 school is closed to employees and pupils due to inclement weather, a teacher shall work on the
22 scheduled makeup day.

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

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

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

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

1 **SECTION 7.14.(c)** This section applies beginning with the 2012-2013 school year.
2

3 **GEOGRAPHICALLY ISOLATED SCHOOLS**

4 **SECTION 7.16.** A local school administrative unit receiving special allotments for
5 a small, geographically isolated school shall continue to receive one-half of that special
6 allotment funding for the fiscal year after the school is closed. These funds shall be used to
7 assist in the transition of students from the closed school to other schools in the local school
8 administrative unit.
9

10 **INVESTING IN INNOVATION GRANT**

11 **SECTION 7.17.(a)** The federal Investing in Innovation Fund Grant: Validating
12 Early College Strategies for Traditional Comprehensive High Schools awarded to the North
13 Carolina New Schools Project for 2012-2017 requires students to enroll in a community college
14 course in the tenth grade. Notwithstanding any other provision of law, specified local school
15 administrative units may offer one community college course to participating sophomore (tenth
16 grade) students. Participating local school administrative units are Alleghany, Beaufort,
17 Hertford, Jones, Madison, Richmond, Rutherford, Sampson, Surry, Wilkes, and Yancey County
18 Schools.

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

23 **SECTION 7.17.(c)** Research for the project shall address the effects of early
24 college strategies in preparing students for college completion. The North Carolina New
25 Schools Project shall report on the implementation of the grant to the State Board of Education,
26 State Board of Community Colleges, Office of the Governor, and the Joint Legislative
27 Education Oversight Committee no later than March 15, 2013, and annually thereafter until the
28 end of the grant period.
29

30 **BUDGETING OF POSITION ALLOTMENTS**

31 **SECTION 7.18.(a)** Section 7.21(a) of S.L. 2011-145 reads as rewritten:

32 **"SECTION 7.21.(a)** For fiscal years 2011-2012 and 2012-2013, the State Board of
33 Education is authorized to extend its emergency rules, in accordance with G.S. 150B-21.1A,
34 granting maximum flexibility to local school administrative units regarding the expenditure of
35 State funds. These rules shall not be subject to the limitations on transfers of funds between
36 funding allotment categories set out in G.S. 115C-105.25. However, these rules shall not permit
37 the following transfers:

- 38 (1) The transfer of funds into central office administration.
- 39 (2) The transfer of funds from the classroom teachers allotment to any allotment
40 other than teacher assistants allotment.
- 41 (3) The transfer of funds from the teacher assistants allotment to any allotment
42 other than the classroom teachers allotment.

43 For funds related to classroom teacher positions, the salary transferred shall be based on the
44 first step of the "A" Teachers salary schedule."

45 **SECTION 7.18.(b)** Local school administrative units may transfer funds for
46 certified instructional support personnel for any purpose not otherwise prohibited by the State
47 Board of Education's ABC transfer policy by submitting an ABC Transfer Form to the
48 Department of Public Instruction. For funds related to certified instructional support personnel
49 positions, the salary transferred shall be based on the first step of the "A" Teachers salary
50 schedule. No local school administrative unit shall convert certified position allotments to
51 dollars in order to hire the same type of position.
52

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

54 **SECTION 7.19.(a)** Funds appropriated for the Uniform Education Reporting
55 System shall not revert at the end of the 2011-2012 fiscal year.

56 **SECTION 7.19.(b)** This section becomes effective June 30, 2012.
57

58 **PART VII-A. EXCELLENT PUBLIC SCHOOLS ACT**

59

IMPROVE K-3 LITERACY

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

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

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

"§ 115C-83.1A. State goal.

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

"§ 115C-83.1B. Purposes.

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

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

"§ 115C-83.1C. Definitions.

The following definitions apply in this Part:

- (1) "Accelerated reading class" means a class where focused instructional supports and services are provided to increase a student's reading level at least two grades in one school year.
- (2) "Alternative assessment" means a valid and reliable standardized assessment of reading comprehension, approved by the State Board of Education, that is not the same test as the State-approved standardized test of reading comprehension administered to third grade students.
- (3) "Instructional supports and services" mean intentional strategies used with a majority of students to facilitate reading development and remediate emerging difficulty with reading development. Instructional supports and services include, but are not limited to, small group instruction, reduced teacher-student ratios, frequent progress monitoring, and extended learning time.
- (4) "Difficulty with reading development" means not demonstrating appropriate developmental abilities in any of the major reading areas, including, but not limited to, oral language, phonological or phonemic awareness, vocabulary, fluency, or comprehension, according to observation-based, diagnostic, or formative assessments.
- (5) "Reading interventions" mean evidence-based strategies frequently used to remediate reading deficiencies and include, but are not limited to, individual instruction, tutoring, or mentoring that target specific reading skills and abilities.
- (6) "Reading proficiency" means reading at or above the third grade level by the end of a student's third grade year, demonstrated by the results of the State-approved standardized test of reading comprehension administered to third grade students.
- (7) "Reading deficiency" means not reading at the third grade level by the end of the student's third grade year, demonstrated by the results of the State-approved standardized test of reading comprehension administered to third grade students.
- (8) "Student reading portfolio" means a compilation of independently produced student work selected by the student's teacher, and signed by the teacher and principal, as an accurate picture of the student's reading ability. The student reading portfolio shall include an organized collection of evidence of the student's mastery of the State's reading standards that are assessed by the State-approved standardized test of reading comprehension administered to third grade students. For each benchmark, there shall be three examples of

1 student work demonstrating mastery by a grade of seventy percent (70%) or
2 above.

3 (9) "Summer reading camp" means an additional educational program outside of
4 the instructional calendar provided by the local school administrative unit to
5 any student who does not demonstrate reading proficiency. Parents or
6 guardians of the student not demonstrating reading proficiency shall make
7 the final decision regarding the student's summer camp attendance. Summer
8 camps shall (i) be six to eight weeks long, four or five days per week; (ii)
9 include at least three hours of instructional time per day; (iii) be taught by
10 compensated, licensed teachers selected based on demonstrated student
11 outcomes in reading proficiency; and (iv) allow volunteer mentors to read
12 with students.

13 (10) "Transitional third and fourth class combination" means a classroom
14 specifically designed to produce learning gains sufficient to meet fourth
15 grade performance standards while continuing to remediate areas of reading
16 deficiency.

17 **"§ 115C-83.1D. Comprehensive plan for reading achievement.**

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

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

31 **"§ 115C-83.1E. Developmental screening and kindergarten entry assessment.**

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

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

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

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

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

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

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

51 (2) Instruction of each child.

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

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

54 **"§ 115C-83.1F. Facilitating early grade reading proficiency.**

55 (a) Kindergarten, first, second, and third grade students shall be assessed with valid,
56 reliable, formative, and diagnostic reading assessments made available to local school
57 administrative units by the State Board of Education pursuant to G.S. 115C-174.11(a).
58 Difficulty with reading development identified through administration of formative and
59 diagnostic assessments shall be addressed with instructional supports and services. To the

1 greatest extent possible, kindergarten through third grade reading assessments shall yield data
2 that can be used with the Education Value-Added Assessment System (EVAAS), or a
3 compatible and comparable system approved by the State Board of Education, to analyze
4 student data to identify root causes for difficulty with reading development and to determine
5 actions to address them.

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

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

13 **"§ 115C-83.1G. Elimination of social promotion.**

14 (a) The State Board of Education shall require that a student be retained in the third
15 grade if the student fails to demonstrate reading proficiency appropriate for a third grade
16 student, as demonstrated on a State-approved standardized test of reading comprehension
17 administered to third grade students. The test may be readministered once prior to the end of
18 the school year.

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

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

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

28 (3) Students who demonstrate reading proficiency appropriate for third grade
29 students on an alternative assessment approved by the State Board of
30 Education. Teachers may administer the alternative assessment following the
31 administration of the State-approved standardized test of reading
32 comprehension typically given to third grade students at the end of the
33 school year, or after a student's participation in the local school
34 administrative unit's summer reading camp.

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

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

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

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

52 (2) The principal shall review the documentation and make an initial
53 determination whether the student should be promoted. If the principal
54 determines the student should be promoted, the principal shall make a
55 written recommendation of promotion to the superintendent for final
56 determination. The superintendent's acceptance or rejection of the
57 recommendation shall be in writing.

58 **"§ 115C-83.1H. Successful reading development for retained students.**

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

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

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

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

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

25 **"§ 115C-83.1I. Notification requirements to parents and guardians.**

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

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

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

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

43 **"§ 115C-83.1J. Accountability measures.**

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

- 47 (1) The number and percentage of third grade students demonstrating and not
48 demonstrating reading proficiency on the State-approved standardized test of
49 reading comprehension administered to third grade students.
- 50 (2) The number and percentage of third grade students who take and pass the
51 alternative assessment of reading comprehension.
- 52 (3) The number and percentage of third grade students retained for not
53 demonstrating reading proficiency.
- 54 (4) The number and percentage of third grade students exempt from mandatory
55 third grade retention by category of exemption as listed in
56 G.S. 115C-83.1G(b).

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

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

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

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

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

13 **"§ 115C-105.41. Students who have been placed at risk of academic failure; personal**
14 **education plans.**

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

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

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

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

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

43 "(a) Assessment Instruments for ~~First and Second Grades~~ Kindergarten, First, Second,
44 and Third Grades. – The State Board of Education shall ~~adopt~~ develop, adopt, and provide to
45 the local school administrative units developmentally appropriate individualized assessment
46 instruments consistent with the Basic Education Program and Part 1A of Article 8 of this
47 Chapter for the ~~first and second grades, rather than standardized tests.~~ kindergarten, first,
48 second, and third grades. Local school administrative units ~~may~~ shall use these assessment
49 instruments provided to them by the State Board for ~~first and second grade students,~~
50 kindergarten, first, second, and third grade students to assess progress, diagnose difficulties,
51 and inform instruction and remediation needs. ~~and~~ Local school administrative units shall not
52 use standardized tests for summative assessment of kindergarten, first, and second grade
53 students except as required as a condition of receiving federal grants."

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

55 read:

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

57 (1) Students in the third grade shall be retained if the student fails to
58 demonstrate reading proficiency by reading at or above the third grade level
59 as demonstrated by the results of the State-approved standardized test of

1 reading comprehension administered to third grade students. The charter
2 school shall provide reading interventions to retained students to remediate
3 reading deficiency, which may include 90 minutes of daily, uninterrupted,
4 evidence-based reading instruction, accelerated reading classes, transition
5 classes containing third and fourth grade students, and summer reading
6 camps.

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

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

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

16 c. Students who demonstrate reading proficiency appropriate for third
17 grade students on an alternative assessment of reading
18 comprehension. The charter school shall notify the State Board of
19 Education of the alternative assessment used to demonstrate reading
20 proficiency.

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

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

26 (3) The charter school shall provide notice to parents and guardians when a
27 student is not reading at grade level. The notice shall state that if the
28 student's reading deficiency is not remediated by the end of third grade, the
29 student shall be retained unless he or she is exempt from mandatory
30 retention for good cause. Notice shall also be provided to parents and
31 guardians of any student who is to be retained under this subsection of the
32 reason the student is not eligible for a good cause exemption, as well as a
33 description of proposed reading interventions that will be provided to the
34 student to remediate identified areas of reading deficiency.

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

38 a. The number and percentage of third grade students demonstrating
39 and not demonstrating reading proficiency on the State-approved
40 standardized test of reading comprehension administered to third
41 grade students.

42 b. The number and percentage of third grade students not demonstrating
43 reading proficiency and who do not return to the charter school for
44 the following school year.

45 c. The number and percentage of third grade students who take and
46 pass the alternative assessment of reading comprehension.

47 d. The number and percentage of third grade students retained for not
48 demonstrating reading proficiency.

49 e. The number and percentage of third grade students exempt from
50 mandatory third grade retention by category of exemption as listed in
51 subdivision (2) of this subsection."

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

53 "(a) To Grade and Classify Pupils. – The principal shall have authority to grade and
54 classify ~~pupils~~pupils, except as provided in G.S. 115C-83.1G(a). In determining the appropriate
55 grade for a pupil who is already attending a public school, the principal shall consider the
56 pupil's classroom work and grades, the pupil's scores on standardized tests, and the best
57 educational interests of the pupil. The principal shall not make the decision solely on the basis
58 of standardized test scores. If a principal's decision to retain a child in the same grade is

1 partially based on the pupil's scores on standardized tests, those test scores shall be verified as
2 accurate.

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

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

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

14 **SECTION 7A.1.(i)** This section is effective when it becomes law and applies
15 beginning with the 2013-2014 school year. The developmental screening and kindergarten
16 entry assessment required by this section shall be administered beginning with the 2014-2015
17 school year.

19 SCHOOL PERFORMANCE GRADES

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

21 "c1. To issue an annual "report card" for the State and for each local
22 school administrative unit, assessing each unit's efforts to improve
23 student performance based on the growth in performance of the
24 students in each school and taking into account progress over the
25 previous years' level of performance and the State's performance in
26 comparison with other states. This assessment shall take into account
27 factors that have been shown to affect student performance and that
28 the State Board considers relevant to assess the State's efforts to
29 improve student performance. As a part of the annual "report card"
30 for each local school administrative unit, the State Board shall award
31 an overall numerical school performance score on a scale of zero to
32 100 and a corresponding letter grade of A, B, C, D, or F earned by
33 each school within the local school administrative unit. The school
34 performance score and grade shall reflect student performance on
35 annual subject-specific assessments, college and workplace readiness
36 measures, and graduation rates. For schools serving students in any
37 grade from kindergarten to eighth grade, separate performance scores
38 and grades shall also be awarded based on the school performance in
39 reading and mathematics respectively. The annual "report card" for
40 schools serving students in third grade also shall include the number
41 and percentage of third grade students who (i) take and pass the
42 alternative assessment of reading comprehension; (ii) were retained
43 in third grade for not demonstrating reading proficiency as indicated
44 in G.S. 115C-83.1G(a); and (iii) were exempt from mandatory third
45 grade retention by category of exemption as listed in
46 G.S. 115C-83.1G(b)."

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

48 "(58) To Inform the Public About the North Carolina School Report Cards Issued
49 by the State Board of Education. – Each local board of education shall
50 ensure that the report card issued for it by the State Board of Education
51 receives wide distribution to the local press or ~~otherwise~~ is otherwise
52 provided to the public. Each local board of education shall ensure that the
53 overall school performance score and grade earned by each school in the
54 local school administrative unit for the current and previous four school
55 years is prominently displayed on the Web site of the local school
56 administrative unit. If any school in the local school administrative unit is
57 awarded a grade of D or F, the local board of education shall provide notice
58 of the grade in writing to the parent or guardian of all students enrolled in
59 that school."

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

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

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

12 "(11) North Carolina School Report Cards. – A regional school shall ensure that
13 the report card issued for it by the State Board of Education receives wide
14 distribution to the local press or is otherwise provided to the public. A
15 regional school shall ensure that the overall school performance score and
16 grade earned by the regional school for the current and previous four school
17 years is prominently displayed on the school Web site. If a regional school is
18 awarded a grade of D or F, the regional school shall provide notice of the
19 grade in writing to the parent or guardian of all students enrolled in that
20 school."

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

- 23 (1) The State Board of Education shall calculate school performance scores by
24 totaling the sum of points earned by the school and converting the sum of
25 points to a 100-point scale. Subdivisions (2) and (3) of this section provide
26 the school performance elements for schools serving students in
27 kindergarten through eighth grade. Subdivision (4) of this section provides
28 the school performance elements for schools serving grades nine through
29 twelve. The school performance score shall be used to determine the school
30 performance grade based on the following scale:
31 a. At least 90 performance grade points for an overall school
32 performance grade of A.
33 b. At least 80 performance grade points for an overall school
34 performance grade of B.
35 c. At least 70 performance grade points for an overall school
36 performance grade of C.
37 d. At least 60 performance grade points for an overall school
38 performance grade of D.
39 e. A school that accumulates fewer than 60 points shall be assigned an
40 overall school performance grade of F.
41 (2) For schools serving students in kindergarten through eighth grade, the
42 overall school performance score shall be calculated based on the sum of
43 three school performance elements.
44 a. The score shall be calculated as follows:
45 1. One point for each percent of students who score at or above
46 proficient on annual assessments for mathematics in grades
47 three through eight.
48 2. One point for each percent of students who score at or above
49 proficient on annual assessments for reading in grades three
50 through eight.
51 3. One point for each percent of students who score at or above
52 proficient on annual assessments for science in grades five
53 and eight.
54 (3) For schools serving students in kindergarten through eighth grade, the school
55 performance scores in reading and mathematics, respectively, shall be
56 earned as follows:
57 a. The literacy school performance score shall be based on the percent
58 of students who score at or above proficient on annual assessments
59 for reading assessments in grades three through eight.

- b. The mathematics school performance score shall be based on the percent of students who score at or above proficient on annual assessments for mathematics in grades three through eight.
- (4) The school performance score earned by schools serving students in ninth through twelfth grades shall be calculated based on the sum of seven school performance elements.
 - a. The score shall be calculated as follows:
 - 1. One point for each percent of students who score at or above proficient on annual assessments for mathematics.
 - 2. One point for each percent of students who score at or above proficient on annual assessments for English.
 - 3. One point for each percent of students who score at or above proficient on annual assessments for biology.
 - 4. One point for each percent of students who complete a higher level mathematics class with a passing grade.
 - 5. One point for each percent of students who score at or above a level demonstrating college readiness on a nationally normed test of college readiness.
 - 6. One point for each percent of students who graduate within four years of entering high school.
 - 7. One point for each percent of students who demonstrate workplace readiness on a nationally normed test of workplace readiness.
- (5) In calculating the overall school performance score earned by schools, the State Board of Education shall proportionally adjust the scale to account for the absence of a school performance element for award of scores to a school that does not have a measure of one of the school performance elements annually assessed for the grades taught at that school.
- (6) The State Board of Education shall report to the Joint Legislative Education Oversight Committee annually by January 15 on recommended adjustments to the school performance grade elements and scales for award of scores and grades.

SECTION 7A.3.(f) It is the intent of the General Assembly to add a student growth component to school performance grades.

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

FUNDING FOR THE ADDITION OF FIVE INSTRUCTIONAL DAYS WITHIN THE EXISTING SCHOOL CALENDAR

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

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

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.

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

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

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

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

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

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

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

31 **SECTION 7A.7.(b)** This section is effective when it becomes law. The State
32 Board of Education shall recruit and place an initial cohort of NC Teacher Corps members no
33 later than the 2012-2013 school year.
34

35 **PAY FOR EXCELLENCE**

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

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

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

58 **SECTION 7A.10.(b)** This section is effective when it becomes law.
59

PART VIII. COMMUNITY COLLEGES**CARRYFORWARD FOR EQUIPMENT**

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

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

REPEAL OBSOLETE REPORTS

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

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

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

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

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

SECTION 8.3.(d) Section 4 of S.L. 2005-198 is repealed.

REPEAL DUPLICATIVE AUDIT REQUIREMENT

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

UPDATE COLLEGE PERFORMANCE MEASURES

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

"§ 115D-31.3. Institutional performance accountability.

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

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

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

- (1) Progress of basic skills ~~students, students.~~
- (2) Passing rate for ~~licensure and certification examinations, General Educational Development (GED) diploma examinations.~~
- (3) Performance of students who transfer to a four-year ~~institution, institution.~~
- (4) ~~Passing Success rates in of developmental courses, students in subsequent college-level English courses.~~
- (5) Success rates of developmental students in subsequent college-level ~~courses, math courses.~~
- (5a) Progress of first-year curriculum students.
- (6) ~~The level of satisfaction of students who complete programs and those who do not complete programs,~~
- (7) Curriculum student retention and ~~graduation, and graduation.~~
- (8) ~~Client satisfaction with customized training.~~
- (9) Passing rate for licensure and certification examinations.

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

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

1 The Community Colleges System Office shall publish the performance of all colleges on all
2 eight ~~standards-measures~~.

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

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

20 (1) ~~The passing rate on all reported licensure and certification examinations for~~
21 ~~which the community colleges have authority over who sits for the~~
22 ~~examination must meet or exceed seventy percent (70%) for first time test~~
23 ~~takers; and~~

24 (2) ~~The percentage of college transfer students with a grade point average of at~~
25 ~~least 2.0 after two semesters at a four-year institution must equal or exceed~~
26 ~~the performance of students who began college at that four-year institution.~~

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

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

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

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

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

48 (3) Is a county whose wealth, as calculated under the formula for distributing
49 supplemental funding for schools in low-wealth counties, is eighty percent
50 (80%) or less of the State average.

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

53 54 **MODIFY INSTITUTIONAL PERFORMANCE ACCOUNTABILITY FOR ONE YEAR**

55 **SECTION 8.6.** Effective for the 2011-2012 reporting year, and notwithstanding
56 G.S. 115D-31.3, the State Board of Community Colleges shall not require a college to report its
57 performance on the progress of basic skills students as one of the mandatory performance
58 standards prescribed by G.S. 115D-31.3(e). A college shall not be evaluated on the progress of
59 basic skills students for the purpose of recognizing successful institutional performance or

1 exceptional institutional performance. For each of the remaining seven performance standards
2 on which a college performs successfully, the college may retain and carry forward into the
3 2013-2014 fiscal year two-sevenths of one percent (2/7 of 1%) of its final fiscal year General
4 Fund appropriations.

5 6 **GATEWAY TO COLLEGE PILOT AT DURHAM TECHNICAL COMMUNITY** 7 **COLLEGE**

8 **SECTION 8.7.(a)** Notwithstanding Section 7.1A of S.L. 2011-145, as amended by
9 Section 13 of S.L. 2011-391, and any other provision of law, the State Board of Education and
10 the State Board of Community Colleges shall approve the Gateway to College program at
11 Durham Technical Community College as a Career and College pathway pilot program. This
12 program concurrently provides high school and college education to high school students who
13 have previously dropped out.

14 **SECTION 8.7.(b)** The State Board of Community Colleges shall include
15 curriculum coursework, including developmental course work, associated with this program
16 when computing the budget FTE for Durham Technical Community College in the 2012-2013
17 fiscal year.

18 **SECTION 8.7.(c)** Durham Technical Community College shall report to the
19 Education Appropriation Subcommittees of the House of Representatives and the Senate by
20 March 1, 2013, on student outcomes under the program and on the actual cost of the program,
21 including administrative expenses incurred by Durham Public Schools and Durham Technical
22 Community College.

23 24 **COMMUNITY COLLEGE TUITION WAIVER**

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

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

- 35 (1) Persons not enrolled in elementary or secondary schools taking courses
36 leading to a high school diploma or equivalent certificate.
- 37 (2) Courses requested by the following entities that support the organizations'
38 training needs and are on a specialized course list approved by the State
39 Board of Community Colleges:
 - 40 a. Volunteer fire departments.
 - 41 b. Municipal, county, or State fire departments.
 - 42 c. Volunteer EMS or rescue and lifesaving departments.
 - 43 d. Municipal, county, or State EMS or rescue and lifesaving
44 departments.
 - 45 d1. Law enforcement, fire, EMS or rescue and lifesaving entities serving
46 a lake authority that was created by a county board of commissioners
47 prior to July 1, 2012.
 - 48 e. Radio Emergency Associated Communications Teams (REACT)
49 under contract to a county as an emergency response agency.
50 ~~(v) (vi) municipal county, or State law enforcement officers~~
 - 51 f. Municipal, county, or State law enforcement agencies.
 - 52 g. The Division of Adult Correction of the Department of Public Safety
53 for the training of full-time custodial employees and employees of
54 the Division's Section of Community Corrections of the Division of
55 Adult Correction required to be certified under Chapter 17C of the
56 General Statutes and the rules of the Criminal Justice and Training
57 Standards Commission.
 - 58 h. The Division of Juvenile Justice of the Department of Public Safety
59 for the training of employees required to be certified under Chapter

17C of the General Statutes and the rules of the Criminal Justice and Training Standards Commission.

i. The Eastern Band of Cherokee Indians law enforcement, fire, EMS or rescue and lifesaving tribal government departments or programs.

(3) Repealed by Session Laws 2011-145, s. 8.12(a), effective July 1, 2011.

(4) Trainees enrolled in courses conducted under the Customized Training Program.

(5) through (9) Repealed by Session Laws 2011-145, s. 8.12(a), effective July 1, 2011.

(10) Elementary and secondary school employees enrolled in courses in first aid or cardiopulmonary resuscitation (CPR).

(11) Up to six hours of credit instruction and one course of noncredit instruction per academic semester for senior citizens age 65 or older who are qualified as legal residents of North Carolina.

(12) All curriculum courses taken by high school students at community colleges, in accordance with G.S. 115D-20(4) and this section.

(13) Human resources development courses for any individual who (i) is unemployed; (ii) has received notification of a pending layoff; (iii) is working and is eligible for the Federal Earned Income Tax Credit (FEITC); or (iv) is working and earning wages at or below two hundred percent (200%) of the federal poverty guidelines.

(14) Repealed by Session Laws 2011-145, s. 8.12(a), effective July 1, 2011.

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

INCREASE MAXIMUM PARKING FINE

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

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

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

(b) The trustees are authorized and empowered to make additional rules and regulations and to adopt additional ordinances with respect to the use of the streets, roads, alleys and driveways and to establish parking areas on or off the campuses not inconsistent with the provisions of Chapter 20 of the General Statutes of North Carolina. Upon investigation, the trustees may determine and fix speed limits on streets, roads, alleys, and driveways subject to such rules, regulations, and ordinances, lower than those provided in G.S. 20-141. The trustees may make reasonable provisions for the towing or removal of unattended vehicles found to be in violation of rules, regulations and ordinances. All rules, regulations and ordinances adopted pursuant to the authority of this section shall be recorded in the proceedings of the trustees; shall be printed; and copies of such rules, regulations and ordinances shall be filed in the office of the Secretary of State of North Carolina. Violation of any such rules, regulations, or ordinances, is an infraction punishable by a penalty of not more than one hundred dollars (\$100.00).

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

(1) If the institution operates in such a way that the person who tows the vehicle is responsible for collecting towing fees, all provisions of Article 7A, Chapter 20, apply.

- 1 (2) If the institution operates in such a way that it is responsible for collecting
 2 towing fees, it shall:
 3 a. Provide by contract or ordinance for a schedule of reasonable towing
 4 fees,
 5 b. Provide a procedure for a prompt fair hearing to contest the towing,
 6 c. Provide for an appeal to district court from that hearing,
 7 d. Authorize release of the vehicle at any time after towing by the
 8 posting of a bond or paying of the fees due, and
 9 e. If the institution chooses to enforce its authority by sale of the
 10 vehicle, provide a sale procedure similar to that provided in
 11 G.S. 44A-4, 44A-5, and 44A-6, except that no hearing in addition to
 12 the probable cause hearing is required. If no one purchases the
 13 vehicle at the sale and if the value of the vehicle is less than the
 14 amount of the lien, the institution may destroy it.

15 (c) The trustees may by rules, regulations, or ordinances provide for a system of
 16 registration of all motor vehicles where the owner or operator does park on the campus or keeps
 17 said vehicle on the campus. The trustees shall cause to be posted at appropriate places on
 18 campus notice to the public of applicable parking and traffic rules, regulations, and ordinances
 19 governing the campus over which it has jurisdiction. The trustees may by rules, regulations, or
 20 ordinances establish or cause to have established a system of citations that may be issued to
 21 owners or operators of motor vehicles who violate established rules, regulations, or ordinances.
 22 The trustees shall provide for the administration of said system of citations; establish or cause
 23 to be established a system of fines to be levied for the violation of established rules, regulations
 24 and ordinances; and enforce or cause to be enforced the collection of said fines. The fine for
 25 each offense shall not exceed ~~five dollars (\$5.00), which funds shall be retained in the~~
 26 ~~institution and expended in the discretion of the trustees.~~ twenty-five dollars (\$25.00). The
 27 trustees shall be empowered to exercise the right to prohibit repeated violators of such rules,
 28 regulations, or ordinances from parking on the campus.

29 (d) The clear proceeds of all civil penalties collected pursuant to this section shall be
 30 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."
 31

32 **POWERS OF THE STATE BOARD OF PROPRIETARY SCHOOLS**

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

35 **"§ 115D-89.4. Powers of the State Board of Proprietary Schools.**

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

- 38 (1) Have the powers of a body corporate, including the power to make contracts
 39 and to alter the same as may be deemed expedient;
 40 (2) Be authorized and empowered to rent and lease such property, real or
 41 personal, as the State Board of Proprietary Schools may deem proper to
 42 carry out the purposes and provisions of this Article, all or any of them;
 43 (3) Establish an office for the transaction of its business at such place or places
 44 as, in the opinion of the State Board of Proprietary Schools, shall be
 45 advisable or necessary in carrying out the purposes of this Article;
 46 (4) Be authorized and empowered to pay from the Commercial Education Fund
 47 all necessary costs and expenses involved in and incident to the formation,
 48 organization, and administration of the State Board of Proprietary Schools
 49 and all other costs and expenses reasonably necessary or expedient in
 50 carrying out and accomplishing the purposes of this Article; and
 51 (5) Be authorized and empowered to do any and all other acts and things in this
 52 Article authorized or required to be done, whether or not included in the
 53 general powers listed in this section.

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

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

57 **"§ 115D-89.2. Office of Proprietary Schools; staff.**

58 The Office of Proprietary Schools shall be the principal administrative unit under the
 59 direction of the State Board of Proprietary Schools. Unless otherwise specified in

1 G.S. 115D-89.3, the State Board of Proprietary Schools has authority to recommend for
2 adoption and to administer all policies, regulations, and standards which it deems necessary for
3 the operation of the Office of Proprietary Schools.

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

9 The State Board of Proprietary Schools may hire other employees as it deems necessary to
10 carry out the provisions of this Article. The compensation of the staff members hired by the
11 State Board of Proprietary Schools shall be fixed by the State Board of Proprietary Schools
12 upon recommendation of the Executive Director of the Office of Proprietary Schools. The
13 Executive Director shall provide an annual projected operating budget to the State Board of
14 Proprietary Schools at a time each year designated by the State Board of Proprietary Schools.
15 The budget will be approved by the State Board of Proprietary Schools from funds provided by
16 fees deposited in the Commercial Education Fund."

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

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

- 20 (1) Public school superintendents, principals, teachers, and other public school
21 employees.
- 22 (2) Recodified as G.S. 126-5(c)(4) by Session Laws 1985 (Regular Session,
23 1986), c. 1014, s. 41.
- 24 (3) Employees of community colleges whose salaries are fixed in accordance
25 with the provisions of G.S. 115D-5 and G.S. 115D-20, and employees of the
26 Community Colleges System Office whose salaries are fixed by the State
27 Board of Community Colleges in accordance with the provisions of
28 G.S. 115D-3.
- 29 (4) Employees of the Office of Proprietary Schools whose salaries are fixed by
30 the State Board of Proprietary Schools in accordance with the provisions of
31 G.S. 115D-89.2."

32 33 **GASTON MULTICAMPUS**

34 **SECTION 8.10.** Notwithstanding G.S. 115D-5(o), the State Board of Community
35 Colleges shall approve the Kimbrell Campus multicampus site of Gaston College.

36 37 **NORTH CAROLINA BACK-TO-WORK PROGRAM**

38 **SECTION 8.10A.** Of the funds appropriated in this act to the Community Colleges
39 System Office, the sum of five million dollars (\$5,000,000) shall be used for the North Carolina
40 Back-to-Work Program, a retraining program to prepare North Carolinians facing long-term
41 unemployment for new careers. The program shall provide students with job training and
42 retraining; employability skills, including a Career Readiness Certificate; and third-party,
43 industry-recognized credentials. The Community Colleges System Office and the Department
44 of Commerce shall jointly recommend to the State Board of Community Colleges up to 10
45 colleges to which to allocate available funds based on (i) the number of long-term unemployed
46 individuals in the college's service area, (ii) the percentage of long-term unemployed
47 individuals in the college's service area, (iii) the availability of jobs for which the North
48 Carolina Back-to-Work Program could prepare students, and (iv) the college's demonstrated
49 willingness and ability to successfully implement the program. The money may only be used
50 for the following activities: student instruction, student support and coaching, and targeted
51 financial assistance for students, including assistance with tuition, registration fees, books, and
52 certification costs.

53 54 **FINANCIAL AID PROGRAM ADMINISTRATIVE COSTS**

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

57 **"SECTION 9.8.(a)** There is appropriated from the Escheat Fund income to the Board of
58 Governors of The University of North Carolina the sum of forty-nine million six hundred
59 twenty-two thousand two hundred forty-two dollars (\$49,622,242) for the 2011-2012 fiscal

1 year and the sum of ~~thirty-two million one hundred twenty-two thousand two hundred~~
 2 ~~forty-two dollars (\$32,122,242)~~ thirty-seven million two hundred eighty-seven thousand two
 3 hundred forty-two dollars (\$37,287,242) for the 2012-2013 fiscal year to be used for The
 4 University of North Carolina Need-Based Financial Aid Program."

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

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

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

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

24 PART IX. UNIVERSITIES

25 STUDY TUITION COST FOR VETERANS

26 **SECTION 9.1.** The Joint Legislative Education Oversight Committee shall study
 27 the tuition costs for veterans who enroll in the State's community colleges or in any constituent
 28 institution of The University of North Carolina. As part of the study, the Committee shall
 29 consider the current criteria for determining whether a veteran qualifies for the resident tuition
 30 rate and how those criteria affect veterans who qualify for post-9/11 GI Bill benefits, as well as
 31 other veterans. The Committee shall also consider the potential educational costs to the State of
 32 veterans who attend any of the State's public institutions of higher education at the resident
 33 tuition rate and ways to limit those costs. The Committee may consider any other issues
 34 relevant to the study.
 35
 36
 37

38 STUDENT FINANCIAL AID/TECHNICAL CORRECTIONS

39 **SECTION 9.2.(a)** G.S. 116-209.45(b)(1) reads as rewritten:

40 "(b) Definitions. – The following definitions apply in this section:

- 41 (1) Eligible Institution. – Notwithstanding G.S. 116-201(b)(5) and
 42 G.S. 116-201(b)(6) and for purposes of this section only, an institution of
 43 higher education that is any of the following:
 44 a. A postsecondary constituent institution of The University of North
 45 Carolina as defined in G.S. 116-2(4).
 46 b. A community college as defined in G.S. 115D-2(2).
 47 c. ~~A nonprofit postsecondary institution as defined in G.S. 116-22(1) or~~
 48 ~~G.S. 116-43.5.~~
 49 d. ~~A postsecondary institution owned or operated by a hospital~~
 50 ~~authority as defined in G.S. 131E-16(14).~~
 51 e. ~~A school of nursing affiliated with a nonprofit postsecondary~~
 52 ~~institution as defined in G.S. 116-22(1).~~
 53 f. Another public or nonprofit postsecondary institution offering a
 54 program of study not otherwise available in North Carolina that is
 55 deemed to be eligible under rules promulgated by the Authority.
 56 g. An eligible private postsecondary institution as defined in
 57 G.S. 116-280(3)."

58 **SECTION 9.2.(b)** Section 9.18(d) of S.L. 2011-145 reads as rewritten:

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

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

8 "SECTION 9.18.(i) Subsections (a), (d), and (i) of this section become effective July 1,
9 2011. Article 34 of Chapter 116 of the General Statutes, as enacted by subsection (a) of this
10 section, applies to the 2012-2013 academic year and each subsequent academic year, except
11 that the rule-making authority for the State Education Assistance Authority under
12 G.S. 116-283(a) becomes effective immediately on July 1, 2011. Subsections (b), (c), (e), (f),
13 (g), and (h) of this section become effective July 1, ~~2012-2012,~~ except that the State Education
14 Assistance Authority may continue to make payments pursuant to G.S. 116-43.5 until August
15 1, 2012, to students who attended certain private institutions of higher education in the
16 2011-2012 academic year."

17 SECTION 9.2.(d) Of the funds appropriated by this act to the Board of Governors
18 for the 2012-2013 fiscal year and allocated to the State Education Assistance Authority for the
19 North Carolina Need-Based Scholarships for Students Attending Private Institutions of Higher
20 Education pursuant to Article 34 of Chapter 116 of the General Statutes, the State Education
21 Assistance Authority may use up to two hundred eighty-one thousand five hundred seventeen
22 dollars (\$281,517) to make the payments authorized by subsection (c) of this section to students
23 who attended certain private institutions of higher education in the 2011-2012 academic year.
24

25 UNC/REPEAL OBSOLETE OR REDUNDANT REPORTING REQUIREMENTS

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

27 "(10a) The Board of Governors, the State Board of Community Colleges, and the
28 State Board of Education, in consultation with nonprofit postsecondary
29 educational institutions shall plan a system to provide an exchange of
30 information among the public schools and institutions of higher education to
31 be implemented no later than June 30, 1995. As used in this section,
32 "institutions of higher education" shall mean (i) public higher education
33 institutions defined in G.S. 116-143.1(a)(3), and (ii) those nonprofit
34 postsecondary educational institutions as described in G.S. 116-280 that
35 choose to participate in the information exchange. The information shall
36 include:

- 37 a. The number of high school graduates who apply to, are admitted to,
38 and enroll in institutions of higher education;
- 39 b. College performance of high school graduates for the year
40 immediately following high school graduation including each
41 student's: need for remedial coursework at the institution of higher
42 education that the student attends; performance in standard freshmen
43 courses; and continued enrollment in a subsequent year in the same
44 or another institution of higher education in the State;
- 45 c. The progress of students from one institution of higher education to
46 another; and
- 47 d. Consistent and uniform public school course information including
48 course code, name, and description.

49 The Department of Public Instruction shall generate and the local school
50 administrative units shall use standardized transcripts in an automated
51 format for applicants to higher education institutions. The standardized
52 transcript shall include grade point average, class rank, end-of-course test
53 scores, and uniform course information including course code, name, units
54 earned toward graduation, and credits earned for admission from an
55 institution of higher education. The grade point average and class rank shall
56 be calculated by a standard method to be devised by the institutions of
57 higher education. ~~The Board of Governors shall coordinate a joint progress
58 report on the implementation of the system to provide an exchange of
59 information among the public and independent colleges and universities, the~~

community colleges, and the public schools. The report shall be made to the Joint Legislative Education Oversight Committee no later than February 15, 1993, and annually thereafter."

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

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

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

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

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

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

1 the University's capital facilities, including a status report on all repair, renovation, and
2 maintenance projects being undertaken and an assessment of needs for additional funding to
3 repair, renovate, and maintain the facilities.

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

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

13 14 **NC GRADUATES IN PRIMARY CARE CENTERS/CHANGE REPORT DATE**

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

16 "(d) The progress of the private and State-operated medical schools and State-operated
17 health professional schools towards increasing the number and proportion of graduates entering
18 primary care shall be monitored annually by the Board of Governors of The University of
19 North Carolina. Monitoring data shall include (i) the entry of State-supported graduates into
20 primary care residencies and clinical training programs, and (ii) the specialty practices by a
21 physician and each midlevel provider who were State-supported graduates as of a date five
22 years after graduation. The Board of Governors shall certify data on graduates, their residencies
23 and clinical training programs, and subsequent careers by ~~October 1~~ November 15 of each
24 calendar year, beginning in ~~October of 1995~~, November of 2012, to the Fiscal Research
25 Division of the Legislative Services Office and to the Joint Legislative Education Oversight
26 Committee."

27 28 **PERMANENT TRANSFER OF FUNDING FOR MILITARY ONE-STOP & BRAC** 29 **OUTREACH**

30 **SECTION 9.7.** The Military One-Stop & BRAC Outreach program previously
31 vested in Fayetteville State University is transferred to The University of North Carolina
32 General Administration with all of the elements of a Type I transfer as defined in G.S. 143A-6.
33 The program transfer shall include the sum of two hundred fifty-one thousand five hundred
34 dollars (\$251,500).

35 36 **STUDY UNC TUITION SURCHARGE**

37 **SECTION 9.8.** The Fiscal Research Division, in cooperation with The University
38 of North Carolina, shall study the tuition surcharge mandated by G.S. 116-143.7. As part of
39 the study, the Fiscal Research Division shall examine the surcharge's effect, if any, on the
40 number of credit hours taken by students at constituent institutions of The University of North
41 Carolina and the resulting effect on the timely achievement of graduation; the number of
42 students subject to the surcharge in each of the last five academic years; and the revenue
43 generated by the surcharge. In its study, the Fiscal Research Division shall also examine the
44 methods that The University of North Carolina employs to provide notice to a student that the
45 student is approaching the credit hour limit and will be charged the tuition surcharge if the
46 student exceeds that limit.

47 The Fiscal Research Division shall report its findings and recommendations,
48 including any legislative recommendations, by January 1, 2013, to the Joint Legislative
49 Education Oversight Committee and to the Education Appropriation Subcommittees of the
50 House of Representatives and the Senate.

51 52 **UNC STUDENT FEES/INSTITUTIONAL TRUST FUNDS**

53 **SECTION 9.9.** G.S. 116-36.1(g) is amended by adding a new subdivision to read:

54 "(12) Any other moneys collected by an institution as student fees previously
55 approved by the Board of Governors."

56 57 **UNC ACQUISITION AND DISPOSITION OF REAL PROPERTY**

58 **SECTION 9.10.(a)** G.S. 116-31.12 reads as rewritten:

59 "**§ 116-31.12. Acquisition and disposition of real property by lease.**

1 Notwithstanding G.S. 143-341(4), and in addition to the powers granted in
2 G.S. 116-198.34(5), the Board of Governors may authorize the constituent institutions and the
3 General Administration to acquire or dispose of real property by lease if the lease is for a term
4 of not more than 10 years. The Board of Governors shall establish a policy for acquiring and
5 disposing of an interest in real property for the use of The University of North Carolina and its
6 constituent institutions by lease. This policy may delegate authorization of the acquisition or
7 disposition of real property by lease to the boards of trustees of the constituent institutions or to
8 the President of The University of North Carolina. The Board of Governors shall submit all
9 initial policies adopted pursuant to this section to the State Property Office for review prior to
10 adoption by the Board. Any subsequent changes to these policies adopted by the Board of
11 Governors shall be submitted to the State Property Office for review. Any comments by the
12 State Property Office shall be submitted to the President of The University of North Carolina.
13 After the acquisition or disposition of an interest in real property by lease, The University of
14 North Carolina shall promptly file a report concerning the acquisition or disposition to the
15 Secretary of Administration. Acquisitions and dispositions of an interest in real property by
16 lease pursuant to this section shall not be subject to the provisions of Article 36 of Chapter 143
17 of the General Statutes or to the provisions of ~~Article 6~~ Article 6 or 7 of Chapter 146 of the
18 General Statutes."

19 **SECTION 9.10.(b)** G.S. 116-198.34(5) reads as rewritten:

20 "(5) To acquire, hold, lease, and dispose of real and personal property in the
21 exercise of its powers and the performance of its duties hereunder and to
22 lease all or any part of any project or projects and any existing facilities upon
23 such terms and conditions as the Board determines, subject to the provisions
24 of G.S. 143-341 and Chapter 146 of the General Statutes.

25 Notwithstanding G.S. 143-341 and Chapter 146 of the General Statutes,
26 a disposition by easement, lease, or rental agreement of space in any
27 building on the Centennial Campus, on the Horace Williams Campus, ~~or on~~
28 ~~a Millennial Campus Campus~~, or on a Kannapolis Research Campus made
29 for a period of 10 years or less shall not require the approval of the Governor
30 and the Council of State. All other acquisitions and dispositions made under
31 this subdivision for a period in excess of 10 years are subject to the
32 provisions of G.S. 143-341 and Chapter 146 of the General Statutes."

33 **SECTION 9.10.(c)** The Board of Governors of The University of North Carolina
34 shall report to the Joint Legislative Commission on Governmental Operations by September 1,
35 2014, regarding the following:

- 36 (1) How often the constituent institutions and General Administration used the
37 authority to dispose of real property pursuant to G.S. 116-31.12 or
38 G.S. 116-198.34(5).
- 39 (2) The types of real properties that were disposed of by lease under that
40 statutory authority.
- 41 (3) An analysis and evaluation of what effect, if any, the authorization for the
42 disposition of real property by lease has made with regard to the overall
43 efficiency of real estate management by the constituent institutions and
44 General Administration.

45 **SECTION 9.10.(d)** Subsections (a) and (b) of this section expire on June 30, 2015.

47 **UNC PARTNERSHIP FOR NATIONAL SECURITY**

48 **SECTION 9.13.** The University of North Carolina may use funds available to it for
49 the 2012-2013 fiscal year to continue and expand its work on the UNC Partnership for National
50 Security to benefit the United States Marine Corps at Camp Lejeune and to build further its
51 faculty and student capabilities in developing technologies for the special operations
52 community. The Partnership works to connect the resources of The University of North
53 Carolina system to the needs of our military, its service members, veterans, their families, and
54 the defense industry in North Carolina. Partnership activities include all of the following:
55 degree program development for service members and the defense industry; short courses,
56 training, and subject matter expertise exchange; science and technology product development
57 for the battle space; and scholar support, such as internships for The University of North
58 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.

3 4 **UNC/FUNDS FOR CAMPUSES SPECIALIZING IN THE ARTS AND SCIENCES**

5 **SECTION 9.14.(a)** Of funds appropriated to the Board of Governors of The
6 University of North Carolina in Section 2.1 of this act to restore the management flexibility
7 reduction, the sum of three million dollars (\$3,000,000) shall be allocated to the campuses
8 specializing in the arts and sciences listed below as follows:

- 9 (1) \$1,000,000 for the University of North Carolina School of the Arts.
- 10 (2) \$1,000,000 for the University of North Carolina at Asheville.
- 11 (3) \$1,000,000 for the North Carolina School of Science and Mathematics.

12 The Board of Governors shall allocate the remainder of these funds in accordance with Section
13 9.6 of S.L. 2011-145.

14 **SECTION 9.14.(b)** The Board of Governors shall not reduce State funds to these
15 three campuses for the 2012-2013 fiscal year as a result of the allocations directed in subsection
16 (a) of this section.

17 18 **LIABILITY INSURANCE**

19 **SECTION 9.15.** G.S. 116-11 is amended by adding a new subdivision to read:

20 "(13a) The Board of Governors may authorize the President to purchase
21 commercial insurance of any kind to cover all risks or potential liability of
22 the University, the Board of Governors, boards of trustees, other
23 administrative or oversight boards, the President, the University benefit plan
24 administrators, and employees of the University relating to the management,
25 direction, and administration of University employee benefit plans, including
26 the risks and potential liability related to benefit plan investments managed
27 by the University.

28 Members of the Board of Governors, boards of trustees, other
29 administrative and oversight boards, and employees of the University shall
30 be considered State employees for purposes of Articles 31 and 31A of
31 Chapter 143 of the General Statutes. To the extent that the President
32 purchases commercial liability insurance coverage in excess of one hundred
33 fifty thousand dollars (\$150,000) per claim for liability arising under Article
34 31 or 31A of Chapter 143 of the General Statutes, the provisions of
35 G.S. 143-299.4 shall not apply. To the extent that the President purchases
36 commercial insurance coverage for liability arising under Article 31 or 31A
37 of Chapter 143 of the General Statutes, the provisions of G.S. 143-300.6(a)
38 shall not apply.

39 The purchase of insurance by the President under this section shall not be
40 construed to waive sovereign immunity or any other defense available to the
41 University, the Board of Governors, boards of trustees, other administrative
42 and oversight boards, the President, University benefit plan administrators,
43 and employees of the University in an action or contested matter in any
44 court, agency, or tribunal. The purchase of insurance by the President shall
45 not be construed to alter or expand the limitations on claims or payments
46 established in G.S. 143-299.2 or limit the right of the University, the Board
47 of Governors, boards of trustees, other administrative or oversight boards,
48 the President, University benefit plan administrators, and employees of the
49 University to defense by the State as provided by G.S. 143-300.3."

50 51 **PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES**

52 53 **NC PRE-K**

54 **SECTION 10.1.(a)** The Division of Child Development and Early Education shall
55 require the NC Pre-K contractor to issue multiple-year contracts for licensed private child care
56 centers providing NC Pre-K classrooms.

57 **SECTION 10.1.(b)** The Division of Child Development and Early Education
58 (Division) shall create a pilot program that provides funding for NC Pre-K classrooms on a per
59 classroom basis. The pilot program shall include three different NC Pre-K contractual regions

1 that are geographically diverse. The local NC Pre-K administrator shall contract with the
2 provider for operation of a classroom established pursuant to the pilot program. The Division
3 shall report to the House of Representatives Appropriations Subcommittee on Health and
4 Human Services, the Senate Appropriations/Base Budget Committee on Health and Human
5 Services, and the Fiscal Research Division on the pilot program no later than January 31, 2013.
6 The report shall include the following:

- 7 (1) The number of students served.
- 8 (2) The amount of funds paid for each classroom.
- 9 (3) The amount of funds paid per student.
- 10 (4) The attendance information on students in the pilot program as compared to
11 those students in a classroom having a traditional funding structure.
- 12 (5) Information on the number of students and students' families using the
13 Subsidized Early Education for Kids (SEEK) system.
- 14 (6) A cost comparison of the classroom pilots to the average cost per student
15 through the per student funding methodology.

16 **SECTION 10.1.(c)** The Division of Child Development and Early Education shall
17 continue the implementation of the NC Pre-K program. The NC Pre-K program shall serve
18 children who reach the age of four on or before August 31 of that school year and who meet
19 eligibility criteria.

20 **SECTION 10.1.(c1)** G.S. 110-91(2) reads as rewritten:

21 "(2) ~~Health-Related Activities. – The Commission shall adopt rules for child care~~
22 ~~facilities to ensure that all children receive nutritious food and beverages~~
23 ~~according to their developmental needs. The Commission shall consult with~~
24 ~~the Division of Child Development of the Department of Health and Human~~
25 ~~Services to develop nutrition standards to provide for requirements~~
26 ~~appropriate for children of different ages. In developing nutrition standards,~~
27 ~~the Commission shall consider the following recommendations:~~

- 28 a. ~~Limiting or prohibiting the serving of sweetened beverages, other~~
29 ~~than 100% fruit juice, to children of any age.~~
- 30 b. ~~Limiting or prohibiting the serving of whole milk to children two~~
31 ~~years of age or older or flavored milk to children of any age.~~
- 32 c. ~~Limiting or prohibiting the serving of more than six ounces of juice~~
33 ~~per day to children of any age.~~
- 34 d. ~~Limiting or prohibiting the serving of juice from a bottle.~~
- 35 e. ~~Creating an exception from the rules for parents of children who~~
36 ~~have medical needs, special diets, or food allergies.~~
- 37 f. ~~Creating an exception from the rules to allow a parent or guardian, or~~
38 ~~to allow the center upon the request of a parent or guardian, to~~
39 ~~provide to a child food and beverages that may not meet the nutrition~~
40 ~~standards.~~

41 g. Nutrition standards. – The Commission shall adopt rules for child
42 care facilities to ensure that food and beverages provided by a child
43 care facility are nutritious and align with children's developmental
44 needs. The Commission shall consult with the Division of Child
45 Development and Early Education of the Department of Health and
46 Human Services to develop nutrition standards to provide for
47 requirements appropriate for children of different ages. In developing
48 nutrition standards, the Commission shall consider the following
49 recommendations:

- 50 1. Limiting or prohibiting the serving of sweetened beverages,
51 other than one hundred percent (100%) fruit juice to children
52 of any age.
- 53 2. Limiting or prohibiting the serving of whole milk to children
54 two years of age or older or flavored milk to children of any
55 age.
- 56 3. Limiting or prohibiting the serving of more than six ounces of
57 juice per day to children of any age.
- 58 4. Limiting or prohibiting the serving of juice from a bottle.

59 h. Parental exceptions. –

- 1 1. Parents or guardians of a child enrolled in a child care facility
 2 may (i) provide food and beverages to their child that may not
 3 meet the nutrition standards adopted by the Commission and
 4 (ii) opt out of any supplemental food program provided by the
 5 child care facility. The child care facility shall not provide
 6 food or beverages to a child whose parent or guardian has
 7 opted out of any supplemental food program provided by the
 8 child care facility and whose parent or guardian is providing
 9 food and beverages for the child.
- 10 2. The Commission, the Division of Child Development and
 11 Early Education of the Department of Health and Human
 12 Services, or any State agency or contracting entity with a
 13 State agency shall not evaluate the nutritional value or
 14 adequacy of the components of food and beverages provided
 15 by a parent or guardian to his or her child enrolled in a child
 16 care facility as an indicator of environmental quality ratings.
- 17 i. Rest time. – Each child care facility shall have a rest period for each
 18 child in care after lunch or at some other appropriate time and
 19 arrange for each child in care to be out-of-doors each day if weather
 20 conditions permit."

21 **SECTION 10.1.(d)** Other than developmental disabilities or other chronic health
 22 issues, the Division of Child Development and Early Education shall not consider the health of
 23 a child as a factor in determining eligibility for participation in the NC Pre-K program.

24 **SECTION 10.1.(e)** All entities operating NC Pre-K classrooms shall adhere to all
 25 of the policies prescribed by the Division of Child Development and Early Education regarding
 26 programmatic standards and classroom requirements.

27 **SECTION 10.1.(f)** The Division of Child Development and Early Education shall
 28 establish a standard decision-making process to be used by local NC Pre-K committees in
 29 awarding NC Pre-K classroom slots and student selection.

30 **SECTION 10.1.(g)** The Division of Child Development and Early Education shall
 31 submit an annual report no later than March 15 of each year to the Joint Legislative
 32 Commission on Governmental Operations, the Joint Legislative Oversight Committee on
 33 Health and Human Services, the Senate Appropriations Committee on Health and Human
 34 Services, the House of Representatives Appropriations Subcommittee on Health and Human
 35 Services, the Office of State Budget and Management, and the Fiscal Research Division. The
 36 report shall include the following:

- 37 (1) The number of children participating in the NC Pre-K program.
 38 (2) The number of children participating in the NC Pre-K program who have
 39 never been served in other early education programs, such as child care,
 40 public or private preschool, Head Start, Early Head Start, or early
 41 intervention programs.
 42 (3) The expected NC Pre-K expenditures for the programs and the source of the
 43 local contributions.
 44 (4) The results of an annual evaluation of the NC Pre-K program.

45 **REVISE CHILD CARE SUBSIDY RATES PROVISION**

46 **SECTION 10.2.** Section 10.1 of S.L. 2011-145 is amended by adding the
 47 following new subsection to read:

48 **"SECTION 10.1.(g1)** The Department of Health and Human Services, Division of Child
 49 Development and Early Education, shall require all county departments of social services to
 50 include on any forms used to determine eligibility for child care subsidy whether the family
 51 waiting for subsidy is receiving assistance through the NC Pre-K program or Head Start."
 52

53 **CHILD CARE ALLOCATION FORMULA/DIRECTION**

54 **SECTION 10.2A.** Section 10.2(a) of S.L. 2011-145 is amended by adding the
 55 following new subdivisions to read:

56 **"SECTION 10.2.(a)** The Department of Health and Human Services shall allocate child
 57 care subsidy voucher funds to pay the costs of necessary child care for minor children of needy
 58 families. The mandatory thirty percent (30%) Smart Start subsidy allocation under
 59

1 G.S. 143B-168.15(g) shall constitute the base amount for each county's child care subsidy
 2 allocation. The Department of Health and Human Services shall use the following method
 3 when allocating federal and State child care funds, not including the aggregate mandatory thirty
 4 percent (30%) Smart Start subsidy allocation:

- 5 (1) Funds shall be allocated to a county based upon the projected cost of serving
 6 children under age 11 in families with all parents working who earn less than
 7 seventy-five percent (75%) of the State median income.
- 8 (2) No county's allocation shall be less than ninety percent (90%) of its State
 9 fiscal year 2001-2002 initial child care subsidy allocation.
- 10 (3) For fiscal year 2012-2013, the Division of Child Development and Early
 11 Education shall base the formula identified in subdivision (1) of this
 12 subsection on the same data source used for the 2011-2012 fiscal year.
- 13 (4) The Department of Health and Human Services shall allocate to counties all
 14 State funds appropriated for child care subsidy and shall not withhold funds
 15 during the 2012-2013 fiscal year."

17 **EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES**
 18 **ENHANCEMENTS/SALARY SCHEDULE/MATCH REQUIREMENT**
 19 **ADJUSTMENTS**

20 **SECTION 10.3.(a)** Section 10.5(c) of S.L. 2011-145 is repealed.

21 **SECTION 10.3.(b)** Section 10.5 of S.L. 2011-145 is amended by adding the
 22 following new subsection to read:

23 "**SECTION 10.5.(c1)** The North Carolina Partnership for Children, Inc., shall develop and
 24 implement a salary schedule for the Executive Director of the North Carolina Partnership for
 25 Children, Inc., and the directors of local partnerships. The salary schedule shall set the
 26 maximum amount of State funds that may be used for the salary of the Executive Director of
 27 the North Carolina Partnership for Children, Inc., and the directors of the local partnerships. In
 28 establishing a salary schedule, the North Carolina Partnership for Children, Inc., shall base the
 29 schedule on the following criteria:

- 30 (1) The population of the area serviced by a local partnership.
- 31 (2) The amount of State funds administered.
- 32 (3) The amount of total funds administered.
- 33 (4) The professional experience of the individual to be compensated.
- 34 (5) Any other relevant factors pertaining to salary, as determined by the North
 35 Carolina Partnership for Children, Inc.

36 The salary schedule shall be used only to determine the maximum amount of State funds that
 37 may be used for compensation. Nothing in this subsection shall be construed to prohibit a local
 38 partnership from using non-State funds to supplement an individual's salary in excess of the
 39 amount set by the salary schedule established under this subsection."

40 **SECTION 10.3.(c)** Section 10.5(e) of S.L. 2011-145, as amended by Section 21A
 41 of S.L. 2011-391, reads as rewritten:

42 "**SECTION 10.5.(e)** The North Carolina Partnership for Children, Inc., and all local
 43 partnerships shall, in the aggregate, be required to match one hundred percent (100%) of the
 44 total amount budgeted for the program in each fiscal year of the biennium. Of the funds the
 45 North Carolina Partnership for Children, Inc., and the local partnerships are required to match,
 46 contributions of cash shall equal to at least ~~seven percent (7%)~~ ten percent (10%) and in-kind
 47 donated resources equal to no more than three percent (3%) for a total match requirement of ~~ten~~
 48 ~~percent (10%)~~ thirteen percent (13%) for each fiscal year. The North Carolina Partnership for
 49 Children, Inc., may carry forward any amount in excess of the required match for a fiscal year
 50 in order to meet the match requirement of the succeeding fiscal year. Only in-kind
 51 contributions that are quantifiable shall be applied to the in-kind match requirement. Volunteer
 52 services may be treated as an in-kind contribution for the purpose of the match requirement of
 53 this subsection. Volunteer services that qualify as professional services shall be valued at the
 54 fair market value of those services. All other volunteer service hours shall be valued at the
 55 statewide average wage rate as calculated from data compiled by the Employment Security
 56 Commission in the Employment and Wages in North Carolina Annual Report for the most
 57 recent period for which data are available. Expenses, including both those paid by cash and
 58 in-kind contributions, incurred by other participating non-State entities contracting with the
 59 North Carolina Partnership for Children, Inc., or the local partnerships, also may be considered

1 resources available to meet the required private match. In order to qualify to meet the required
2 private match, the expenses shall:

- 3 (1) Be verifiable from the contractor's records.
- 4 (2) If in-kind, other than volunteer services, be quantifiable in accordance with
5 generally accepted accounting principles for nonprofit organizations.
- 6 (3) Not include expenses funded by State funds.
- 7 (4) Be supplemental to and not supplant preexisting resources for related
8 program activities.
- 9 (5) Be incurred as a direct result of the Early Childhood Initiatives Program and
10 be necessary and reasonable for the proper and efficient accomplishment of
11 the Program's objectives.
- 12 (6) Be otherwise allowable under federal or State law.
- 13 (7) Be required and described in the contractual agreements approved by the
14 North Carolina Partnership for Children, Inc., or the local partnership.
- 15 (8) Be reported to the North Carolina Partnership for Children, Inc., or the local
16 partnership by the contractor in the same manner as reimbursable expenses.

17 Failure to obtain a ~~ten percent (10%)~~ thirteen percent (13%) match by June 30 of each fiscal
18 year shall result in a dollar-for-dollar reduction in the appropriation for the Program for a
19 subsequent fiscal year. The North Carolina Partnership for Children, Inc., shall be responsible
20 for compiling information on the private cash and in-kind contributions into a report that is
21 submitted to the Joint Legislative Commission on Governmental Operations in a format that
22 allows verification by the Department of Revenue. The same match requirements shall apply to
23 any expansion funds appropriated by the General Assembly."

24 **SECTION 10.3.(d)** To the extent possible, the North Carolina Partnership for
25 Children, Inc., shall not reduce subsidy expenditures for the 2012-2013 fiscal year.

26
27 **"READ NC" EARLY LITERACY INITIATIVE/DEVELOPMENT**
28 **OFFICERS/ASSISTANCE TO RURAL PARTNERSHIPS**

29 **SECTION 10.4.(a)** Of the funds appropriated to the Department of Health and
30 Human Services, Division of Child Development and Early Education, for the North Carolina
31 Partnership for Children, Inc., the sum of three million five hundred thousand dollars
32 (\$3,500,000) for the 2012-2013 fiscal year shall be used by the North Carolina Partnership for
33 Children, Inc., to develop and administer an early literacy initiative pilot program, to be known
34 as "Read NC," hire four North Carolina Partnership for Children, Inc., development officers,
35 and provide additional funds for rural partnerships; provided, however, the Department shall
36 not expend the funds appropriated in this section for the 2012-2013 fiscal year until January 1,
37 2013, pending a determination by the Office of State Budget and Management that there is
38 adequate funding for the Medicaid budget for the 2012-2013 fiscal year, as provided in Section
39 10.9G of this act. "Read NC" will focus on increasing the early literacy skills of children who
40 are most at risk for reading below grade level. The pilot program shall be distributed
41 geographically to ensure adequate representation of the diverse areas of the State.

42 **SECTION 10.4.(b)** The focus of the pilot program will be to actively engage
43 parents, child care teachers, and communities to help young children build a firm foundation
44 for language acquisition and literacy skills. To that end, the pilot program shall do the
45 following:

- 46 (1) Educate parents in essential early literacy practices.
- 47 (2) Increase the quality of early literacy programming in child care.
- 48 (3) Increase early literacy opportunities for young children and families in
49 community settings by incorporating the following programs:
 - 50 a. "Reach Out and Read," a program that supports doctors in their
51 efforts to "prescribe" reading to young children and families during
52 well-child visits through early literacy guidance and book sharing,
53 free books for children to keep, and literacy-rich waiting rooms.
 - 54 b. "Raising a Reader" (RAR), a program that rotates bright red bags
55 filled with award-winning books into children's homes on a weekly
56 basis, exposing children on average to over 100 books per rotation
57 cycle, and pairs this book rotation with parent training and
58 information on how to effectively share books to promote family
59 literacy habits, language and literacy skills, and a love of learning.

- 1 c. "Motheread/Fatheread," a program that combines the teaching of
2 literacy skills with child development and family empowerment
3 issues.
4 d. "Dolly Parton Imagination Library," a program that provides a free,
5 age-appropriate book each month to children ages birth to five years.

6 **SECTION 10.4.(c)** The Division of Child Development and Early Education and
7 the North Carolina Partnership for Children, Inc., shall report by April 1, 2013, to the Joint
8 Legislative Commission on Governmental Operations, the Joint Legislative Committee on
9 Health and Human Services, the Senate Appropriations/Base Budget Committee on Health and
10 Human Services, and the House of Representatives Appropriations Subcommittee on Health
11 and Human Services on the progress in complying with this section.

12 **SECTION 10.4.(d)** The North Carolina Partnership for Children, Inc., shall include
13 in its assistance to local partnerships training and assistance with fund-raising activities. Of the
14 funds designated under subsection (a) of this section, the North Carolina Partnership for
15 Children, Inc., shall hire a staff of four individuals who are qualified in the areas of grant
16 writing and fund-raising to assist local partnerships in raising the amount of non-State funds
17 required by law. The staff hired pursuant to this subsection shall be located regionally and be
18 accessible to participate in the various local partnerships' activities.

19 **SECTION 10.4.(e)** Of the funds designated under subsection (a) of this section, the
20 North Carolina Partnership for Children, Inc., shall provide assistance to local partnerships
21 located in rural areas of the State. The North Carolina Partnership for Children, Inc., shall
22 establish eligibility criteria for the use of funds pursuant to this subsection based on child
23 poverty, child population, and counties that are identified as being the most economically
24 distressed.

25 **MEDICAID THERAPIES LIMIT REVISED**

26 **SECTION 10.5.** Section 10.37(a)(2) of S.L. 2011-145 is repealed.

27 **MEDICAID ELIGIBILITY/COLA DISREGARD**

28 **SECTION 10.6.(a)** Article 2 of Chapter 108A of the General Statutes is amended
29 by adding a new section to read:

30 **§ 108A-54.4. Income disregard for federal cost-of-living adjustments.**

31 An increase in a Medical Assistance Program recipient's income due solely to a
32 cost-of-living adjustment to federal Social Security and Railroad Retirement payments shall be
33 disregarded when determining income eligibility for the Medical Assistance Program. This
34 section shall not be deemed to render a recipient eligible for the Medical Assistance Program if
35 all other eligibility requirements are not met."

36 **SECTION 10.6.(b)** The Department of Health and Human Services shall apply to
37 the Centers for Medicare and Medicaid Services for any necessary approvals to implement the
38 income disregard required in subsection (a) of this section.

39 **SECTION 10.6.(c)** Subsection (a) of this section becomes effective January 1,
40 2013. The remainder of this section is effective when it becomes law. G.S. 108A-54.4, as
41 enacted by subsection (a) of this section, expires on December 31, 2017.

42 **MEDICAID NONEMERGENCY MEDICAL TRANSPORTATION SERVICES**

43 **SECTION 10.7.(a)** The Department of Health and Human Services, Division of
44 Medical Assistance, in consultation with the Department of Transportation, Public
45 Transportation Division, shall develop and issue a Request for Proposal (RFP) for the
46 management of nonemergency medical transportation (NEMT) services for Medicaid
47 recipients.

48 **SECTION 10.7.(b)** The Department of Health and Human Services and the
49 Department of Transportation shall consider at least all of the following information in
50 developing the RFP required by this section:

- 51 (1) An analysis of nonemergency transportation brokerage services
52 implemented in other states that examines:
53 a. State-level governance and program performance evaluation.
54 b. Assignment of geographic regions for operating and monitoring
55 purposes.
56 c. Quality of transportation service delivery and recipient access.

- 1 d. Accuracy of eligibility determinations.
 2 e. Pricing models.
 3 f. Contract structure, including terms and conditions.
 4 g. Cost of service.
 5 (2) Assessment of the current coordination of human services transportation
 6 within North Carolina and the potential impact of brokerage services on
 7 transit system funding and operations.
 8 (3) A cost-benefit analysis of implementing a statewide NEMT brokerage model
 9 for Medicaid recipients.

10 **SECTION 10.7.(c)** The Division of Medical Assistance shall submit a written
 11 report to the Joint Legislative Oversight Committee on Health and Human Services and the
 12 Joint Legislative Oversight Committee on Transportation by September 15, 2012, on the
 13 analysis required by subdivisions (1), (2), and (3) of subsection (b) of this section.

14 **SECTION 10.7.(d)** The Division shall not enter into a contract with a vendor to
 15 provide NEMT services until (i) the Division meets the reporting requirements of subsection
 16 (c) of this section and (ii) the Department of Health and Human Services (DHHS) determines
 17 that it would be cost-effective to contract for NEMT services. The Secretary of DHHS shall
 18 only proceed with a vendor contract if the Secretary determines that DHHS can justify savings
 19 through the contract and ensure appropriate safety and quality of services for Medicaid
 20 recipients.
 21

22 **MODIFY AND IMPROVE PHARMACY SERVICES**

23 **SECTION 10.8.** Section 10.48 of S.L. 2011-145 reads as rewritten:

24 **"SECTION 10.48.(a)** The Department of Health and Human Services shall revise its
 25 pharmacy dispensing fees under the Medicaid Program in order to encourage a greater
 26 proportion of prescriptions dispensed to be generic prescriptions and thereby achieve savings of
 27 fifteen million dollars (\$15,000,000) in the 2011-2012 fiscal year and twenty-four million
 28 dollars (\$24,000,000) in the 2012-2013 fiscal year.

29 **"SECTION 10.48.(a1)** In addition to the savings required by subsection (a) of this section,
 30 for the 2012-2013 fiscal year, the Department shall lower the fees paid to pharmacies for
 31 dispensing prescription drugs and expand prior authorization requirements to achieve a savings
 32 of at least five million two hundred seventy-nine thousand six hundred one dollars
 33 (\$5,279,601). Any expansion of prior authorization requirements shall be consistent with the
 34 limitations set forth in Section 10.31(d)(2)r.5A. of S.L. 2011-145.

35 **"SECTION 10.48.(a2)** For the 2012-2013 fiscal year, the Department shall achieve a
 36 savings of at least one million three hundred ninety-one thousand nine hundred six dollars
 37 (\$1,391,906) through the implementation of a special pharmacy program for hemophilia drugs.
 38 The savings shall be achieved primarily through the use of the federal 340B Drug Pricing
 39 Program for the dispensing of hemophilia drugs under the Medicaid Program.

40 **"SECTION 10.48.(b)** The Department shall report its progress in achieving the savings
 41 required by subsection (a) of this section for the 2012-2013 fiscal year on November 1, 2011,
 42 January 1, 2012, November 1, 2012, and quarterly thereafter to the House of Representatives
 43 Appropriations Subcommittee on Health and Human Services, and the Senate Appropriations
 44 Subcommittees Committee on Health and Human Services and to the Fiscal Research Division.
 45 If any report required by this subsection reveals that those savings required by subsections (a)
 46 and (a1) of this section are not being achieved, the Department shall reduce prescription drug
 47 rates by an amount sufficient to achieve the savings.

48 **"SECTION 10.48.(c)** The Department shall apply to the Centers for Medicare and
 49 Medicaid Services by July 15, 2012, for any necessary approvals to implement the changes
 50 required by this section."
 51

52 **STUDY ELECTRONIC PRIOR AUTHORIZATION FOR MEDICAID** 53 **PRESCRIPTIONS**

54 **SECTION 10.8A.** The Department of Health and Human Services shall study the
 55 implementation of a system for the Medicaid program that would exchange standard electronic
 56 prior authorization requests with health care providers for drugs and devices using electronic
 57 data interchange standards consistent with those adopted by the National Council of
 58 Prescription Drug Programs for pharmacy benefits managers to exchange standard electronic
 59 prior authorization requests with health care providers. As part of its study, the Department

1 shall review the experience of other states, including start-up costs and annual savings, to
2 provide an estimate of the potential costs and savings for the State. No later than March 1,
3 2013, the Department shall report its findings to the Joint Legislative Oversight Committee on
4 Health and Human Services and the Fiscal Research Division.
5

6 **SMART CARD PILOT PROGRAM**

7 **SECTION 10.9.(a)** S.L. 2011-117 is repealed.

8 **SECTION 10.9.(b)** The Department of Health and Human Services shall
9 implement a smart card pilot program that involves enrollment, distribution, and use of smart
10 cards by designated vendors and recipients as replacements for currently used Medicaid
11 assistance cards. The Provider and Recipient Services Unit of the Division of Medical
12 Assistance (DMA) shall administer the pilot program. The Department may contract with a
13 third-party vendor or vendors to develop and execute the pilot program. If the Department
14 elects to use a third-party vendor or vendors to develop and execute the pilot program, the
15 Department shall select the vendor or vendors through a Request for Proposal process
16 conducted prior to implementation of the pilot program. In developing and implementing the
17 pilot program, the Department shall comply with all applicable information technology
18 procurement requirements. The smart card pilot program shall not expand beyond the areas
19 described in subsection (c) of this section unless the expansion is approved by an act of the
20 General Assembly.

21 **SECTION 10.9.(c)** The purpose of the pilot program is to evaluate the feasibility
22 of the smart card program in different geographical regions of the State. DMA shall select a
23 region of the State to participate in the pilot program that is served by Community Care of
24 North Carolina and meets all other requirements set forth in this section. The pilot program
25 shall be conducted in two urban areas and two rural areas with a representative group of
26 Medicaid recipients from each area.

27 **SECTION 10.9.(d)** The pilot program shall include and evaluate the use of at least
28 two different types of available technology that are designed to do all of the following:

- 29 (1) Authenticate recipients at the onset and completion of each point of
30 transaction in order to prevent card sharing and other forms of fraud.
- 31 (2) Deny ineligible persons at the point of transaction.
- 32 (3) Authenticate providers at the point of transaction to prevent phantom billing
33 and other forms of provider fraud.
- 34 (4) Secure and protect the personal identity and information of recipients.
- 35 (5) Reduce the total amount of medical assistance expenditures by reducing the
36 average cost per recipient.

37 **SECTION 10.9.(e)** The pilot program may include all of the following:

- 38 (1) A secure Web-based information system for recording and reporting
39 authenticated transactions.
- 40 (2) A secure Web-based information system that interfaces with the appropriate
41 State databases to determine eligibility of recipients.
- 42 (3) A system that gathers analytical information to be provided to business
43 intelligence companies in order to assist in business intelligence processes.
- 44 (4) A smart card with the ability to store multiple recipients' information on one
45 card.
- 46 (5) An image of the recipient stored on both the smart card and database.

47 **SECTION 10.9.(f)** The pilot program shall not include a requirement for
48 preenrollment of recipients.

49 **SECTION 10.9.(g)** In conducting the pilot program, the Department may do any of
50 the following:

- 51 (1) Incorporate additional or alternative methods of authentication of recipients.
- 52 (2) Enter and store billing codes, deductible amounts, and bill confirmations.
- 53 (3) Allow electronic prescribing services and prescription database integration
54 and tracking in order to prevent medical error through information sharing
55 and to reduce pharmaceutical abuse and lower health care costs.
- 56 (4) Implement quick-pay incentives for providers who use electronic prescribing
57 services, electronic health records, electronic patient records, or
58 computerized patient records that automatically synchronize with recipients'
59 smart cards and electronically submit a claim.

- 1 (5) Adapt smart cards, fingerprint scanners, and card readers for use by other
2 State programs administered by the Department in order to reduce costs
3 associated with the necessity of multiple cards per recipient.

4 **SECTION 10.9.(h)** During the pilot program, the Department shall evaluate the
5 feasibility of expanding the pilot program, including the need to develop rules and policies
6 related to all of the following:

- 7 (1) Lost, forgotten, or stolen cards.
8 (2) Enrollment of all recipients, regardless of age, for participation in the
9 program.
10 (3) Distribution and activation of smart cards for designated recipients.

11 **SECTION 10.9.(i)** The Department shall work with the Division of Motor
12 Vehicles to ensure that State data, such as drivers license photos and other identification data, is
13 leveraged to reduce program cost.

14 **SECTION 10.9.(j)** By no later than March 1, 2013, the Department shall submit a
15 detailed written report to the Joint Legislative Oversight Committee on Health and Human
16 Services, the Joint Legislative Oversight Committee on Information Technology, the Senate
17 Committee on Health and Human Services, the House Appropriations Subcommittee on Health
18 and Human Services, and the Fiscal Research Division. The report shall include (i) detailed
19 results of the pilot in the four different geographic regions of the State, including cost savings
20 achieved in each region; (ii) costs associated with implementation of the pilot program,
21 including payments to vendors; and (iii) an evaluation of the feasibility of, and issues
22 associated with, implementing the smart card program statewide.

23 **SECTION 10.9.(k)** Of the funds appropriated from the General Fund to the
24 Department of Health and Human Services for the 2012-2013 fiscal year, the sum of up to one
25 million dollars (\$1,000,000) may be used to implement the smart card pilot program authorized
26 by this section.

27 **STATE AUDITOR AUDIT DIVISION OF MEDICAL ASSISTANCE**

28 **SECTION 10.9A.(a)** The State Auditor shall conduct a performance audit of the
29 North Carolina Medicaid Program and the Division of Medical Assistance operated within the
30 Department of Health and Human Services. The audit shall examine the program's
31 effectiveness; results of the program; the utilization of outside vendor contracts, including the
32 number, cost, and duration of such contracts; fiscal controls and Medicaid forecasting; and
33 compliance with requirements of the Centers for Medicare and Medicaid Services and the
34 requirements of State law.

35 **SECTION 10.9A.(b)** The State Auditor shall give a preliminary report on the
36 performance audit required by this section to the Joint Legislative Commission on
37 Governmental Operations and to the Fiscal Research Division by November 1, 2012, and shall
38 complete the performance audit by February 1, 2013.

39 **SECTION 10.9A.(c)** Of the funds appropriated to the Department of Health and
40 Human Services, Division of Medical Assistance, from the General Fund for the 2012-2013
41 fiscal year to fund contracts, the Department shall transfer to the North Carolina Office of the
42 State Auditor the amount of funds necessary to complete the performance audit required by this
43 section.
44

45 **PED/FRD JOINT STUDY MEDICAID ORGANIZATION**

46 **SECTION 10.9B.(a)** The Program Evaluation Division and the Fiscal Research
47 Division of the General Assembly shall jointly study the feasibility of creating a separate
48 Department of Medicaid and make a joint recommendation on this issue to the 2013 Regular
49 Session of the General Assembly no later than February 15, 2013.

50 **SECTION 10.9B.(b)** The joint study directed by subsection (a) of this section shall
51 include all of the following:

- 52 (1) A review of how other states administer Medicaid programs, including the
53 following aspects:
54 a. State Plan development and policy management.
55 b. Payment of claims.
56 c. Budget forecasting.
57 d. Rate-setting.
58 e. Appeals.
59

- 1 f. Involvement in management of care.
2 (2) An analysis of benefits and disadvantages of Medicaid becoming a
3 stand-alone State department, including the following considerations:
4 a. Overhead costs to be saved or increased as a result of any proposed
5 changes.
6 b. Identification of any efficiencies to be gained from such
7 reorganization.
8 c. Identification of any costs that would be incurred as a result of this
9 reorganization.
10 d. Whether it is feasible to also move any other divisions or programs
11 within the Department of Health and Human Services (DHHS) into a
12 new Department of Medicaid.
13 (3) Whether moving Medicaid into its own department would have any adverse
14 impact on funding streams to and administration of other agencies within
15 DHHS.
16 (4) Identification of various Medicaid organizational structures and their costs
17 and savings.
18

19 REMOVE AUTHORITY FOR MEDICAID PROVIDER RATE AND SERVICE 20 REDUCTION

21 **SECTION 10.9C.(a)** Except as otherwise provided in this act to achieve Medicaid
22 pharmacy program savings or in Section 10.48 of S.L. 2011-145, notwithstanding any other
23 provision of law, for the 2012-2013 fiscal year, the Department of Health and Human Services
24 shall not reduce Medicaid provider payment rates or Medicaid optional services.

25 **SECTION 10.9C.(b)** The requirements of subsection (a) of this section shall not
26 affect (i) a Medicaid provider payment rate reduction or Medicaid optional service reduction
27 made prior to the effective date of this act; (ii) any applications for Medicaid program
28 modifications authorized by S.L. 2011-145 that are in the process of being approved by the
29 Centers for Medicare and Medicaid Services as of the effective date of this act; or (iii) a
30 reduction in Medicaid provider payment rates or optional services required by a change in
31 federal law or regulation.
32

33 OUTPATIENT IMAGING SERVICES

34 **SECTION 10.9D.(a)** The Department of Health and Human Services shall not
35 enter into a new contract with a vendor to provide outpatient imaging services for the Medicaid
36 Program prior to March 31, 2013.

37 **SECTION 10.9D.(b)** Prior to entering into any new contract with a vendor to
38 provide outpatient imaging services, if the Department of Health and Human Services
39 determines that the new contract shall utilize a radiology decision support program rather than a
40 capitated model, the Department shall report to the House of Representatives Appropriations
41 Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health
42 and Human Services, and the Fiscal Research Division to demonstrate that the transition to a
43 radiology decision support system shall result in spending by the State on imaging services for
44 Medicaid patients at an amount that is less than or equal to the actual amount spent on
45 outpatient imaging services under the most recent radiology management services vendor
46 contract.
47

48 MEDICAID OPTION/SPECIAL CARE AND MEMORY CARE UNITS

49 **SECTION 10.9E.(a)** The Department of Health and Human Services, Division of
50 Medical Assistance, shall develop and submit to the Centers for Medicare and Medicaid
51 Services an application for a home- and community-based services program under Medicaid
52 State Plan 1915(i) authority for elderly individuals who (i) are typically served in special care
53 and memory care units that meet the criteria of the State-County Special Assistance Program
54 and (ii) have been diagnosed with a progressive, degenerative, irreversible disease that attacks
55 the brain and results in impaired memory, thinking, and behavior. The home- and
56 community-based services program developed by the Department pursuant to this section shall
57 focus on providing these elderly individuals with personal care services necessary to ameliorate
58 the effects of gradual memory loss, impaired judgment, disorientation, personality change,
59 difficulty in learning, and loss of language skills.

1 **SECTION 10.9E.(b)** The Division shall implement the program upon approval of
 2 the application by the Centers for Medicare and Medicaid Services.

3 **SECTION 10.9E.(c)** On or before April 1, 2013, the Division shall provide a
 4 report on the status of approval and implementation of the program to the Joint Legislative
 5 Commission on Governmental Operations, the Senate Appropriations Committee on Health
 6 and Human Services, the House of Representatives Appropriations Subcommittee on Health
 7 and Human Services, and the Fiscal Research Division.
 8

9 **PERSONAL CARE SERVICES/ADL ELIGIBILITY**

10 **SECTION 10.9F.(a)** Section 10.38 of S.L. 2011-145 is repealed.

11 **SECTION 10.9F.(b)** Section 10.37(a)(1) of S.L. 2011-145, as amended by Section
 12 25 of S.L. 2011-391, reads as rewritten:

13 **"AUTHORIZE THE DIVISION OF MEDICAL ASSISTANCE TO TAKE CERTAIN**
 14 **STEPS TO EFFECTUATE COMPLIANCE WITH BUDGET REDUCTIONS IN**
 15 **THE MEDICAID PROGRAM**

16 **"SECTION 10.37.(a)** The Department of Health and Human Services, Division of
 17 Medical Assistance, may take the following actions, notwithstanding any other provision of this
 18 act or other State law or rule to the contrary:

19 (1) ~~In-Home Personal Care Services for Children~~ provision. – ~~In order to~~
 20 ~~enhance in-home aide services to Medicaid recipients, the~~ The Department of
 21 Health and Human Services, Division of Medical Assistance, Assistance
 22 (DMA), shall:

23 a. ~~No longer provide~~ Provide services ~~under PCS and PCS Plus~~
 24 ~~whenever CMS approves the elimination of the PCS and PCS Plus~~
 25 ~~programs and the implementation of the following two new services:~~

26 1. ~~In-Home Care for Children (IHCC).~~ Services to assist
 27 families to meet the ~~in-home~~ personal care needs of children,
 28 including those individuals under the age of 21 receiving
 29 comprehensive and preventive child health services through
 30 the Early and Periodic Screening, Diagnosis, and Treatment
 31 (EPSDT) program.

32 2. ~~In-Home Care for Adults (IHCA).~~ Services to meet the
 33 eating, dressing, bathing, toileting, and mobility needs of
 34 individuals 21 years of age or older who, because of a
 35 medical condition, disability, or cognitive impairment,
 36 demonstrate unmet needs for, at a minimum, (i) three of the
 37 five qualifying activities of daily living (ADLs) with limited
 38 hands-on assistance; (ii) two ADLs, one of which requires
 39 extensive assistance; or (iii) two ADLs, one of which requires
 40 assistance at the full dependence level. The five qualifying
 41 ADLs are eating, dressing, bathing, toileting, and mobility.
 42 ~~IHCA shall serve individuals at the highest level of need for~~
 43 ~~in-home care who are able to remain safely in the home.~~

44 b. Establish, in accordance with G.S. 108A-54.2, a Medical Coverage
 45 Policy for each of these programs, to ~~include:~~ include up

46 1. ~~For IHCC, up to 60 hours per month in accordance with an~~
 47 independent assessment conducted by DMA or its designee
 48 and a plan of care developed by the service provider and
 49 approved by DMA or its designee. Additional hours may be
 50 authorized when the services are required to correct or
 51 ameliorate defects and physical and mental illnesses and
 52 conditions in this age group, as defined in 42 U.S.C. §
 53 1396d(r)(5), in accordance with a plan of care approved by
 54 DMA or its designee.

55 2. ~~For IHCA, up to 80 hours per month in accordance with an~~
 56 ~~assessment conducted by DMA or its designee and a plan of~~
 57 ~~care developed by the service provider and approved by~~
 58 ~~DMA or its designee.~~

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- 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 family member, other individual, program, or service available to meet this need. Approval, including the amount of time required to perform this task, shall be documented on the recipient's assessment form and plan of care.~~
- d. Utilize the following process for ~~admission~~evaluation or reevaluation to the IHCC and IHCA programs~~;~~provide personal care services to children:
1. The recipient shall be seen by his or her primary or attending physician, who shall provide written authorization for referral for the service and written attestation to the medical necessity for the service.
 2. All assessments for ~~admission to IHCC and IHCA,~~the provision of services, continuation of these services, and change of status reviews for these services shall be performed by DMA or its designee. The DMA designee may not be an owner of a provider business or provider of ~~in-home or~~ personal care services of any type.
 3. DMA or its designee shall determine and authorize the amount of service to be provided on a "needs basis," as determined by its review and findings of each recipient's degree of functional disability and level of unmet ~~needs for hands on personal assistance in the five qualifying ADLs~~needs.
- e. Take all appropriate actions to manage the cost, quality, program compliance, and utilization of ~~personal care services provided under the IHCC and IHCA programs,~~services, including, but not limited to:
1. Priority independent reassessment of recipients before the anniversary date of their initial ~~admission or reassessment for those recipients likely to qualify for the restructured IHCC and IHCA programs~~assessment.
 2. Priority independent reassessment of recipients requesting a change of service provider.

- 1 3. Targeted independent reassessments of recipients prior to
- 2 their anniversary dates when the current provider assessment
- 3 indicates they may not qualify for ~~the program~~ personal care
- 4 services or for the amount of services they are currently
- 5 receiving.
- 6 4. Targeted independent reassessment of recipients receiving
- 7 services from providers with a history of ~~program~~
- 8 ~~noncompliance~~ noncompliance in providing personal care
- 9 services to children.
- 10 ~~5. Provider desk and on-site reviews and recoupment of all~~
- 11 ~~identified overpayments or improper payments.~~
- 12 ~~6. Recipient reviews, interviews, and surveys.~~
- 13 7. The use of mandated electronic transmission of referral
- 14 forms, plans of care, and reporting forms.
- 15 8. The use of mandated electronic transmission of uniform
- 16 reporting forms for recipient complaints and critical incidents.
- 17 9. The use of automated systems to monitor, evaluate, and
- 18 profile provider performance against established performance
- 19 indicators.
- 20 10. Establishment of rules that implement the requirements of 42
- 21 C.F.R. § 441.16.
- 22 f. ~~Time line for implementation of new IHCC and IHCA programs.~~
- 23 ~~1. Subject to approvals from CMS, DMA shall make every~~
- 24 ~~effort to implement the new IHCC and IHCA programs by~~
- 25 ~~January 1, 2013.~~
- 26 ~~2. DMA shall ensure that individuals who qualify for the IHCC~~
- 27 ~~and IHCA programs shall not experience a lapse in service~~
- 28 ~~and, if necessary, shall be admitted on the basis of their~~
- 29 ~~current provider assessment when an independent~~
- 30 ~~reassessment has not yet been performed and the current~~
- 31 ~~assessment documents that the medical necessity~~
- 32 ~~requirements for the IHCC or IHCA program, as applicable,~~
- 33 ~~have been met.~~
- 34 ~~3. Prior to the implementation date of the new IHCC and IHCA~~
- 35 ~~programs, all recipients in the PCS and PCS Plus programs~~
- 36 ~~shall be notified pursuant to 42 C.F.R. § 431.220(b) and~~
- 37 ~~discharged, and the Department shall no longer provide~~
- 38 ~~services under the PCS and PCS Plus programs, which shall~~
- 39 ~~terminate. Recipients who qualify for the new IHCC and~~
- 40 ~~IHCA programs shall be admitted and shall be eligible to~~
- 41 ~~receive services immediately."~~

42 **SECTION 10.9F.(c)** A Medicaid recipient who meets each of the following criteria
 43 is eligible for personal care services:

- 44 (1) The recipient has a medical condition, disability, or cognitive impairment
- 45 and demonstrates unmet needs for, at a minimum, (i) three of the five
- 46 qualifying activities of daily living (ADLs) with limited hands-on assistance;
- 47 (ii) two ADLs, one of which requires extensive assistance; or (iii) two
- 48 ADLs, one of which requires assistance at the full dependence level.
- 49 (2) The recipient resides either in a private living arrangement, a residential
- 50 facility licensed by the State of North Carolina as an adult care home, or a
- 51 combination home as defined in G.S. 131E-101(1a).

52 The five qualifying ADLs are eating, dressing, bathing, toileting, and mobility.
 53 Personal care services shall be available for up to 80 hours per month in accordance with an
 54 assessment conducted under subsection (d) of this section and a plan of care developed by the
 55 service provider and approved by the Department of Health and Human Services, Division of
 56 Medical Assistance, or its designee. Personal care services shall not include nonmedical
 57 transportation; financial management; non-hands-on assistance such as cueing, prompting,
 58 guiding, coaching, or babysitting; and household chores not directly related to the qualifying
 59 ADLs.

1 **SECTION 10.9F.(d)** All assessments for personal care services, continuation of
2 service, and change of status reviews shall be performed by an independent assessment entity
3 (IAE). The IAE shall not be an owner of a provider business or provider of personal care
4 services of any type.

5 A recipient shall be assessed by the IAE after the recipient's primary or attending
6 physician provides written authorization for referral for the service and written attestation to the
7 medical necessity for the service. The IAE shall determine and authorize the amount of service
8 to be provided as determined by its review and findings of each recipient's degree of functional
9 disability and level of unmet needs for personal care services in the five qualifying ADLs.

10 **SECTION 10.9F.(e)** The Department of Health and Human Services shall report to
11 the Joint Legislative Oversight Committee on Health and Human Services by September 1,
12 2012, on the implementation of this section and on its progress in making independent
13 assessments of recipients.

14 **SECTION 10.9F.(f)** The Department of Health and Human Services shall apply to
15 the Centers for Medicare and Medicaid Services by July 15, 2012, for a Medicaid State Plan
16 Amendment to implement this section.

17 **SECTION 10.9F.(g)** Subsections (c) and (d) of this section become effective
18 January 1, 2013.

20 **APPROPRIATIONS CONTINGENT UPON ADEQUACY OF FUNDING FOR** 21 **MEDICAID BUDGET**

22 **SECTION 10.9G.** Notwithstanding any other provision of this act or any other
23 provision of law, the Department of Health and Human Services shall not, under any
24 circumstances, expend any of the funds appropriated in this act for the 2012-2013 fiscal year
25 for the following purposes until January 1, 2013, pending a determination by the Office of State
26 Budget and Management that there is adequate funding for the Medicaid budget for the
27 2012-2013 fiscal year:

- 28 (1) Funds appropriated to the Division of Child Development and Early
29 Education pursuant to Section 10.4 of this act for "Read NC" Early Literacy
30 Initiative, Development Officers, and assistance to rural partnerships.
- 31 (2) Funds appropriated to the Division of Mental Health, Developmental
32 Disabilities, and Substance Abuse Services for the following:
 - 33 a. Additional psychiatric care beds at Broughton Hospital.
 - 34 b. Additional local inpatient psychiatric beds or bed days available to
35 local management entities or managed care organizations under the
36 State-administered three-way contract pursuant to Section 10.10 of
37 this act.
- 38 (3) Funds appropriated to the Division of Public Health pursuant to Section
39 10.14(a)(5) of this act for local community health and wellness initiatives.

41 **FUNDS FOR INPATIENT PSYCHIATRIC BEDS OR BED DAYS**

42 **SECTION 10.10.** Section 10.8(b) of S.L. 2011-145 reads as rewritten:

43 **"SECTION 10.8.(b)** Of the funds appropriated in this act to the Department of Health and
44 Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse
45 Services, the sum of twenty-nine million one hundred twenty-one thousand six hundred
46 forty-four dollars (\$29,121,644) for the 2011-2012 fiscal year and the sum of ~~twenty-nine~~
47 ~~million one hundred twenty-one thousand six hundred forty-four~~ dollars
48 ~~(\$29,121,644)~~ thirty-eight million one hundred twenty-one thousand six hundred forty-four
49 dollars (\$38,121,644) for the 2012-2013 fiscal year shall be allocated for the purchase of local
50 inpatient psychiatric beds or bed ~~days-days~~; provided, however, the Department shall not
51 expend nine million dollars (\$9,000,000) of the funds appropriated in this section for the
52 2012-2013 fiscal year until January 1, 2013, pending a determination by the Office of State
53 Budget and Management that there is adequate funding for the Medicaid budget for the
54 2012-2013 fiscal year, as provided in Section 10.9G of House Bill 950, 2012 Regular Session.
55 In addition, at the discretion of the Secretary of Health and Human Services, existing funds
56 allocated to LMEs for community-based mental health, developmental disabilities, and
57 substance abuse services may be used to purchase additional local inpatient psychiatric beds or
58 bed days. These beds or bed days shall be distributed across the State in LME catchment
59 ~~areas~~ areas, including any catchment areas served by managed care organizations, and according

1 to need as determined by the Department. The Department shall enter into contracts with the
2 LMEs and community hospitals for the management of these beds or bed days. The
3 Department shall work to ensure that these contracts are awarded equitably around all regions
4 of the State. Local inpatient psychiatric beds or bed days shall be managed and controlled by
5 the LME, including the determination of which local or State hospital the individual should be
6 admitted to pursuant to an involuntary commitment order. Funds shall not be allocated to
7 LMEs but shall be held in a statewide reserve at the Division of Mental Health, Developmental
8 Disabilities, and Substance Abuse Services to pay for services authorized by the LMEs and
9 billed by the hospitals through the LMEs. LMEs shall remit claims for payment to the Division
10 within 15 working days of receipt of a clean claim from the hospital and shall pay the hospital
11 within 30 working days of receipt of payment from the Division. If the Department determines
12 (i) that an LME is not effectively managing the beds or bed days for which it has responsibility,
13 as evidenced by beds or bed days in the local hospital not being utilized while demand for
14 services at the State psychiatric hospitals has not reduced, or (ii) the LME has failed to comply
15 with the prompt payment provisions of this subsection, the Department may contract with
16 another LME to manage the beds or bed days, or, notwithstanding any other provision of law to
17 the contrary, may pay the hospital directly. The Department shall develop reporting
18 requirements for LMEs regarding the utilization of the beds or bed days. Funds appropriated in
19 this section for the purchase of local inpatient psychiatric beds or bed days shall be used to
20 purchase additional beds or bed days not currently funded by or through LMEs and shall not be
21 used to supplant other funds available or otherwise appropriated for the purchase of psychiatric
22 inpatient services under contract with community hospitals, including beds or bed days being
23 purchased through Hospital Utilization Pilot funds appropriated in S.L. 2007-323. Not later
24 than March 1, 2012, the Department shall report to the House of Representatives
25 Appropriations Subcommittee on Health and Human Services, the Senate Appropriations
26 Committee on Health and Human Services, the Joint Legislative Oversight Committee on
27 Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal
28 Research Division on a uniform system for beds or bed days purchased (i) with local funds, (ii)
29 from existing State appropriations, (iii) under the Hospital Utilization Pilot, and (iv) purchased
30 using funds appropriated under this subsection."
31

32 **EXAMINATION OF THE STATE'S DELIVERY OF MENTAL HEALTH SERVICES**

33 **SECTION 10.11.(a)** The Joint Legislative Oversight Committee on Health and
34 Human Services shall appoint a subcommittee to examine the State's delivery of mental health
35 services. As part of its examination, the subcommittee shall review all of the following:

- 36 (1) The State's progress in reforming the mental health system to deliver mental
37 health services to individuals in the most integrated setting appropriate,
38 without unnecessary institutionalization.
- 39 (2) The State's capacity to meet its growing mental health needs with
40 community-based supports.
- 41 (3) The process for determining the catchment areas served by the State's
42 psychiatric hospitals, with consideration of both of the following:
 - 43 a. Factors used in assigning the geographic groupings of local
44 management areas and managed care organizations into catchment
45 areas.
 - 46 b. Alternatives to the current process for determining the catchment
47 areas served by the State's psychiatric hospitals, including a
48 determination of whether there is a more efficient and equitable
49 manner of assigning hospital catchment areas.

50 **SECTION 10.11.(b)** The subcommittee shall report its findings and
51 recommendations to the Joint Legislative Oversight Committee on Health and Human Services
52 on or before January 15, 2013, at which time it shall terminate.
53

54 **FUNDS FOR FAMILY PLANNING SERVICES BY LOCAL HEALTH** 55 **DEPARTMENTS**

56 **SECTION 10.12.** Of the funds appropriated in this act to the Department of Health
57 and Human Services for the 2012-2013 fiscal year, none shall be allocated to renewing,
58 extending, or entering into new contracts for the provision of family planning services and
59 pregnancy prevention activities with providers other than local health departments. Upon the

1 expiration of any contracts in effect during the 2011-2012 fiscal year between the Division of
2 Public Health and private providers of family planning services and pregnancy prevention
3 activities, the Department shall reallocate three hundred forty-three thousand dollars (\$343,000)
4 of these contract funds to local health departments. Local health departments receiving funds
5 under this section shall not contract with private providers for the provision of family planning
6 services or pregnancy prevention activities. These services and activities shall be provided
7 directly by local health department recipients or by other governmental entities contracted by
8 local health department recipients. This section does not apply to contracts administered by the
9 Department pursuant to G.S. 130A-131.15A.

10 11 **COMMUNITY HEALTH GRANT FUNDING**

12 **SECTION 10.13.(a)** By no later than January 1, 2013, the Department of Health
13 and Human Services shall enter into contracts obligating the entire amount of funds
14 appropriated in this act for community health centers for the 2012-2013 fiscal year. These
15 funds shall be used only for community health grants to nonprofit or public health care safety
16 nets that provide primary and preventive medical services to uninsured or medically indigent
17 patients, including free clinics, community health care centers, rural health centers,
18 school-based health centers, and local health departments. The Department shall not use these
19 funds to supplant any reduction in funding prescribed by the General Assembly for the
20 2012-2013 fiscal year.

21 **SECTION 10.13.(b)** By no later than March 1, 2013, the Department of Health and
22 Human Services shall submit a written report on community health grants awarded during the
23 2012-2013 fiscal year to the Joint Legislative Oversight Committee on Health and Human
24 Services, the Senate Appropriations Committee on Health and Human Services, the House
25 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
26 Division. The report shall include at least all of the following:

- 27 (1) The identity and a brief description of the community health activities
28 performed by each grantee.
- 29 (2) The amount of funding awarded to each grantee.
- 30 (3) The number of persons served by each grantee.

31 32 **FUNDS FOR COMMUNITY-BASED HEALTH AND WELLNESS INITIATIVES**

33 **SECTION 10.14.(a)** Funds appropriated in this act to the Department of Health
34 and Human Services, Division of Public Health, for the 2012-2013 fiscal year for
35 community-based health and wellness programs and initiatives shall be used only for the
36 following:

- 37 (1) Programs to prevent and reduce tobacco use by students in grades
38 kindergarten through 12. The Department shall not spend any funds
39 allocated to these programs for statewide marketing and media campaigns
40 for tobacco cessation and prevention. This subdivision shall not be construed
41 to prohibit the use of these funds for (i) local or community-based tobacco
42 cessation and prevention campaigns, (ii) tobacco cessation and prevention
43 campaigns conducted on the premises of North Carolina elementary schools,
44 middle schools, and high schools, or (iii) the North Carolina Tobacco Use
45 Quitline known as QuitlineNC.
- 46 (2) ChecKmeds.
- 47 (3) Medication Assistance Program.
- 48 (4) Roanoke Chowan Telehealth Network.
- 49 (5) Local health department initiatives, provided, however, the Department shall
50 not use these funds for local health department initiatives until January 1,
51 2013, pending a determination by the Office of State Budget and
52 Management (OSBM) that there is adequate funding for the Medicaid
53 budget for the 2012-2013 fiscal year, as provided in Section 10.9G of this
54 act. Upon a determination by OSBM that there is adequate funding for the
55 Medicaid budget for the 2012-2013 fiscal year, local health departments
56 shall use these funds only for local community health and wellness
57 initiatives to promote healthy behaviors, including, but not limited to,
58 tobacco cessation, improved nutrition, increased physical activity, disease
59 prevention, and school nurse positions. Funds received by local health

1 departments pursuant to this section shall not supplant existing funds for
2 local health and wellness programs or initiatives.

3 **SECTION 10.14.(b)** By December 1, 2013, the Department shall submit a written
4 report to the Joint Legislative Oversight Committee on Health and Human Services, the House
5 of Representatives Appropriations Subcommittee on Health and Human Services, the Senate
6 Appropriations Committee on Health and Human Services, and the Fiscal Research Division on
7 the use of these funds. The report shall include at least all of the following:

- 8 (1) The identity and a brief description of each grantee and each program or
9 initiative offered by the grantee.
- 10 (2) The amount of funding awarded to each grantee.
- 11 (3) The number of persons served by each grantee, broken down by program or
12 initiative.

13 **DELAY LOCAL RECEIPT OF LARGER PORTION OF FOOD & LODGING FEES**

14 **SECTION 10.15.** Section 31.11A(c) of S.L. 2011-145, as amended by Section 61A
15 of S.L. 2011-391, reads as rewritten:

16 "**SECTION 31.11A.(c)** Subsection (a) of this section becomes effective ~~July 1, 2012.~~
17 July 1, 2013."
18

19 **AIDS DRUG ASSISTANCE PROGRAM PILOT**

20 **SECTION 10.16.(a)** The Department of Health and Human Services, Division of
21 Public Health, shall develop a pilot program to enroll individuals receiving services under the
22 Aids Drug Assistance Program (ADAP) in Inclusive Health North Carolina. The Department
23 shall not implement the pilot program until it obtains actuarial services to ensure the cost
24 neutrality or cost savings of enrolling ADAP recipients in Inclusive Health North Carolina. If
25 an actuary determines that implementation will be cost neutral or achieve savings, the
26 Department shall implement the pilot program for the period commencing January 1, 2013, and
27 terminating December 31, 2013. The purposes of the pilot are (i) to determine cost savings to
28 ADAP through enrollment of ADAP recipients in a preexisting conditions insurance program
29 (PCIP) and (ii) to inform the Department of best practices in transitioning ADAP recipients to
30 Medicaid as they become eligible. The Department shall select up to three HIV/AIDS care
31 provider agencies with the highest number of ADAP recipients to participate in the pilot. The
32 Department shall ensure that the total number of ADAP recipients participating in the pilot
33 meets all of the following requirements:

- 34 (1) Participation does not exceed ten percent (10%) of the total number of
35 ADAP recipients.
- 36 (2) ADAP recipients shall be enrolled in Inclusive Health North Carolina only
37 up to the point that enrollment remains cost neutral or achieves cost savings
38 to ADAP, as determined by an actuary.

39 **SECTION 10.16.(b)** The Department may contract with a vendor to evaluate the
40 results of the pilot program. By no later than April 1, 2014, the Department shall report to the
41 Joint Legislative Oversight Committee on Health and Human Services, the Senate
42 Appropriations Committee on Health and Human Services, and the House Appropriations
43 Subcommittee on Health and Human Services on the results of the pilot program. The report
44 shall include all of the following:

- 45 (1) The number of pilot program participants.
- 46 (2) A cost analysis for the pilot program, including a cost comparison between
47 ADAP recipients who received services through Inclusive Health North
48 Carolina and ADAP recipients who received services only through ADAP.
- 49 (3) Feedback from pilot program participants.
- 50 (4) Best practices identified by the Department for transitioning ADAP
51 recipients to Medicaid as they become eligible.
- 52 (5) Improved health outcomes.

53 **SECTION 10.16.(c)** The Department shall use funds appropriated to it to develop
54 and implement the pilot program authorized by this section. The Division of Public Health shall
55 manage the number of ADAP recipients enrolled in Inclusive Health North Carolina as part of
56 the pilot program and the number of ADAP recipients receiving services only through ADAP
57 in order to ensure that pilot program expenditures do not exceed available funds.
58
59

REDUCE FUNDING FOR NONPROFIT ORGANIZATIONS

SECTION 10.18.(a) Section 10.18 of S.L. 2011-145 is repealed.

SECTION 10.18.(b) For fiscal year 2012-2013, the Department of Health and Human Services shall reduce the amount of funds allocated to nonprofit organizations by five million dollars (\$5,000,000) on a recurring basis. The Department shall not, under any circumstances, use any funds, including State funds, federal funds, special revenue funds, or departmental receipts, to supplement the reduced amount of funding to be allocated to nonprofit organizations pursuant to this subsection. In achieving the reductions required by this subsection, the Department (i) shall minimize reductions to funds allocated to nonprofit organizations for the provision of direct services and (ii) shall not reduce funds allocated to nonprofit organizations to pay for direct services to individuals with developmental disabilities.

REPORTS BY NON-STATE ENTITIES RECEIVING DIRECT STATE APPROPRIATIONS

SECTION 10.19.(a) The Department of Health and Human Services shall require the following non-State entities to match ten percent (10%) of the total amount of State appropriations received each fiscal year. In addition, the Department shall direct these entities to submit a written report annually, beginning December 1, 2012, of all activities funded by State appropriations to the Joint Legislative Oversight Committee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division:

- (1) North Carolina Senior Games, Inc.
- (2) ARC of North Carolina.
- (3) ARC of North Carolina – Wilmington.
- (4) Autism Society of North Carolina.
- (5) The Mariposa School for Children with Autism.
- (6) Easter Seals UCP of North Carolina.
- (7) Easter Seals UCP of North Carolina and Virginia.
- (8) ABC of North Carolina Child Development Center.
- (9) Residential Services, Inc.
- (10) Oxford House, Inc.
- (11) Brain Injury Association of North Carolina.
- (12) Food Bank of Central and Eastern North Carolina, Inc.
- (13) Food Bank of the Albemarle.
- (14) Manna Food Bank.
- (15) Second Harvest Food Bank of Metrolina, Inc.
- (16) Second Harvest Food Bank of Northwest North Carolina, Inc.
- (17) Second Harvest Food Bank of Southeast North Carolina
- (18) Prevent Blindness NC.

SECTION 10.19.(b) The report required by subsection (a) of this section shall include the following information about the fiscal year preceding the year in which the report is due:

- (1) The entity's mission, purpose, and governance structure.
- (2) A description of the types of programs, services, and activities funded by State appropriations.
- (3) Statistical and demographical information on the number of persons served by these programs, services, and activities, including the counties in which services are provided.
- (4) Outcome measures that demonstrate the impact and effectiveness of the programs, services, and activities.
- (5) A detailed program budget and list of expenditures, including all positions funded and funding sources.
- (6) The source and amount of any matching funds received by the entity.

REPORT ON LAPSED SALARY FUNDS

SECTION 10.20. Beginning no later than November 1, 2012, the Department of Health and Human Services shall submit quarterly reports to the Joint Legislative Oversight Committee on Health and Human Services, the House Appropriations Subcommittee on Health

1 and Human Services, the Senate Appropriations Committee on Health and Human Services,
2 and the Fiscal Research Division on the use of lapsed salary funds by each Division within the
3 Department. For each Division, the report shall include the following information about the
4 preceding calendar quarter:

- 5 (1) The total amount of lapsed salary funds.
- 6 (2) The number of full-time equivalent positions comprising the lapsed salary
7 funds.
- 8 (3) The Fund Code for each full-time equivalent position included in the number
9 reported pursuant to subdivision (2) of this section.
- 10 (4) The purposes for which the Department expended lapsed salary funds.

11 **REVISE DATES/TANF BENEFIT IMPLEMENTATION**

12 **SECTION 10.22.** Section 10.55 of S.L. 2011-145 reads as rewritten:

13
14 **"SECTION 10.55.(a)** The General Assembly approves the plan titled "North Carolina
15 Temporary Assistance for Needy Families State Plan ~~FY 2010-2012,~~"2012-2015," prepared by
16 the Department of Health and Human Services and presented to the General Assembly. The
17 North Carolina Temporary Assistance for Needy Families State Plan covers the period October
18 1, ~~2010,2012,~~ through September 30, ~~2012,2015.~~ The Department shall submit the State Plan,
19 as revised in accordance with subsection (b) of this section, to the United States Department of
20 Health and Human Services, as amended by this act or any other act of the 2011 General
21 Assembly.

22 **"SECTION 10.55.(b)** The counties approved as Electing Counties in the North Carolina
23 Temporary Assistance for Needy Families State Plan ~~FY 2010-2012,2012-2015,~~ as approved
24 by this section are Beaufort, Caldwell, Catawba, Lenoir, Lincoln, Macon, and Wilson.

25 **"SECTION 10.55.(c)** Counties that submitted the letter of intent to remain as an Electing
26 County or to be redesignated as an Electing County and the accompanying county plan for
27 ~~fiscal year 2011-years 2012 through 2012,2015,~~ pursuant to G.S. 108A-27(e), shall operate
28 under the Electing County budget requirements effective July 1, ~~2009,2012.~~ For programmatic
29 purposes, all counties referred to in this subsection shall remain under their current county
30 designation through September 30, ~~2012,2015.~~

31 **"SECTION 10.55.(d)** For the ~~2011-2012~~2012-2013 fiscal year, Electing Counties shall be
32 held harmless to their Work First Family Assistance allocations for the ~~2010-2011~~2011-2012
33 fiscal year, provided that remaining funds allocated for Work First Family Assistance and
34 Work First Diversion Assistance are sufficient for payments made by the Department on behalf
35 of Standard Counties pursuant to G.S. 108A-27.11(b).

36 **"SECTION 10.55.(e)** In the event that departmental projections of Work First Family
37 Assistance and Work First Diversion Assistance for the ~~2011-2012~~2012-2013 fiscal year
38 indicate that remaining funds are insufficient for Work First Family Assistance and Work First
39 Diversion Assistance payments to be made on behalf of Standard Counties, the Department is
40 authorized to deallocate funds, of those allocated to Electing Counties for Work First Family
41 Assistance in excess of the sums set forth in G.S. 108A-27.11, up to the requisite amount for
42 payments in Standard Counties. Prior to deallocation, the Department shall obtain approval by
43 the Office of State Budget and Management. If the Department adjusts the allocation set forth
44 in subsection (d) of this section, then a report shall be made to the Joint Legislative
45 Commission on Governmental Operations, the House of Representatives Appropriations
46 Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health
47 and Human Services, and the Fiscal Research Division."
48

49 **EQUALIZE SPECIAL ASSISTANCE PAYMENTS UNDER IN-HOME, ADULT CARE 50 HOME, AND RENTAL ASSISTANCE PROGRAMS**

51 **SECTION 10.23.(a)** G.S. 108A-47.1 reads as rewritten:

52 **"§ 108A-47.1. Special Assistance in-home payments.**

53 (a) The Department of Health and Human Services may use funds from the existing
54 State-County Special Assistance budget to provide Special Assistance payments to eligible
55 individuals 18 years of age or older in in-home living arrangements. These payments may be
56 made for up to fifteen percent (15%) of the caseload for all State-County Special Assistance.
57 The standard monthly payment to individuals enrolled in the Special Assistance in-home
58 program shall be ~~seventy five percent (75%)~~one hundred percent (100%) of the monthly
59 payment the individual would receive if the individual resided in an adult care home and

1 qualified for Special Assistance, except if a lesser payment amount is appropriate for the
2 individual as determined by the local case manager. The Department shall implement Special
3 Assistance in-home eligibility policies and procedures to assure that in-home program
4 participants are those individuals who need and, but for the in-home program, would seek
5 placement in an adult care home facility. The Department's policies and procedures shall
6 include the use of a functional assessment. ~~The Department shall make this in-home option~~
7 ~~available to all counties on a voluntary basis. To the maximum extent possible, the Department~~
8 ~~shall consider geographic balance in the dispersion of payments to individuals across the State.~~

9 (b) All county departments of social services shall participate in the State-County
10 Special Assistance in-home program by making Special Assistance in-home slots available to
11 individuals who meet the eligibility requirements established by the Department pursuant to
12 subsection (a) of this section. By February 15, 2013, the Department shall establish a formula
13 to determine the need for additional State-County Special Assistance in-home slots for each
14 county. Beginning July 1, 2014, and each July 1 thereafter, the Department shall review and
15 revise the formula as necessary."

16 **SECTION 10.23.(b)** County departments of social services with established
17 State-County Special Assistance in-home slots that have filled some but not all slots as of
18 February 15, 2013, shall maintain at least the same number of slots during the 2012-2013 fiscal
19 year as the average number of slots filled during the 2011-2012 fiscal year.

20 **SECTION 10.23.(c)** County departments of social services with established
21 State-County Special Assistance in-home slots that have not filled any of these slots as of
22 February 15, 2013, shall begin participating in the Special Assistance in-home program
23 effective February 15, 2013, by filling all their established slots.

24 **SECTION 10.23.(d)** County departments of social services with no established
25 State-County Special Assistance in-home slots shall begin participating in the Special
26 Assistance in-home program effective February 15, 2013. The Department shall determine the
27 designated number of slots to be established and filled in these counties by assessing the need
28 for these slots based upon a percentage of the caseload for all State-County Special Assistance
29 within that county.

30 **SECTION 10.23.(e)** Effective February 15, 2013, notwithstanding
31 G.S. 108A-47.1(a) and within existing appropriations for State-County Special Assistance, the
32 Secretary of the Department of Health and Human Services may waive the fifteen percent
33 (15%) cap on Special Assistance in-home payments, as the Secretary deems necessary.

34 **SECTION 10.23.(f)** G.S. 143B-139.5 reads as rewritten:

35 **"§ 143B-139.5. Department of Health and Human Services; adult care State/county share**
36 **of costs; costs; maintenance of State/county budget allocations for State-County**
37 **Special Assistance programs.**

38 State funds available to the Department of Health and Human Services shall pay fifty
39 percent (50%), and the counties shall pay fifty percent (50%) of the authorized rates for care in
40 adult care homes including area mental health agency-operated or contracted-group homes. The
41 Department shall maintain the State's appropriation to the State-County Special Assistance
42 program at one hundred percent (100%) of the State certified budget enacted by the General
43 Assembly for the 2012-2013 fiscal year. The Department shall use these appropriated funds for
44 the State-County Special Assistance program, the State-County Special Assistance in-home
45 program, and rental assistance. Each county department of social services shall maintain its
46 allocation to the State-County Special Assistance program at one hundred percent (100%) of
47 the county funds budgeted for this program for the 2011-2012 fiscal year. Each county shall use
48 these funds for the State-County Special Assistance program, the State-County Special
49 Assistance in-home program, and rental assistance."

50 **SECTION 10.23.(g)** Section 10.59 of S.L. 2011-145 reads as rewritten:

51 **"STATE-COUNTY SPECIAL ASSISTANCE**

52 **"SECTION 10.59.(a)** The maximum monthly rate for residents in adult care home
53 facilities shall be one thousand one hundred eighty-two dollars (\$1,182) per month per ~~resident~~
54 ~~unless adjusted by the Department in accordance with subsection (d) of this section. resident.~~
55 The eligibility of Special Assistance recipients residing in adult care homes on September 30,
56 2009, shall not be affected by an income reduction in the Special Assistance eligibility criteria
57 resulting from the adoption of this maximum monthly rate, provided these recipients are
58 otherwise eligible.

1 "**SECTION 10.59.(b)** The maximum monthly rate for residents in Alzheimer/Dementia
2 special care units shall be one thousand five hundred fifteen dollars (\$1,515) per month per
3 resident ~~unless adjusted by the Department in accordance with subsection (d) of this~~
4 ~~section-resident.~~

5 "~~**SECTION 10.59.(c)** Notwithstanding any other provision of this section, the Department~~
6 ~~of Health and Human Services shall review activities and costs related to the provision of care~~
7 ~~in adult care homes and shall determine what costs may be considered to properly maximize~~
8 ~~allowable reimbursement available through Medicaid personal care services for adult care~~
9 ~~homes (ACH PCS) under federal law. As determined, and with any necessary approval from~~
10 ~~the Centers for Medicare and Medicaid Services (CMS), and the approval of the Office of State~~
11 ~~Budget and Management, the Department may transfer necessary funds from the State County~~
12 ~~Special Assistance program within the Division of Social Services to the Division of Medical~~
13 ~~Assistance and may use those funds as State match to draw down federal matching funds to pay~~
14 ~~for such activities and costs under Medicaid's personal care services for adult care homes~~
15 ~~(ACH PCS), thus maximizing available federal funds. The established rate for State County~~
16 ~~Special Assistance set forth in subsections (b) and (c) of this section shall be adjusted by the~~
17 ~~Department to reflect any transfer of funds from the Division of Social Services to the Division~~
18 ~~of Medical Assistance and related transfer costs and responsibilities from State County Special~~
19 ~~Assistance to the Medicaid personal care services for adult care homes (ACH PCS). Subject to~~
20 ~~approval by the Centers for Medicare and Medicaid Services (CMS) and prior to implementing~~
21 ~~this section, the Department may disregard a limited amount of income for individuals whose~~
22 ~~countable income exceeds the adjusted State County Special Assistance rate. The amount of~~
23 ~~the disregard shall not exceed the difference between the Special Assistance rate prior to the~~
24 ~~adjustment and the Special Assistance rate after the adjustment and shall be used to pay a~~
25 ~~portion of the cost of the ACH PCS and reduce the Medicaid payment for the individual's~~
26 ~~personal care services provided in an adult care home. In no event shall the reimbursement for~~
27 ~~services through the ACH PCS exceed the average cost of the services as determined by the~~
28 ~~Department from review of cost reports as required and submitted by adult care homes. The~~
29 ~~Department shall report any transfers of funds and modifications of rates to the House of~~
30 ~~Representatives Appropriations Subcommittee on Health and Human Services, the Senate~~
31 ~~Appropriations Committee on Health and Human Services, and the Fiscal Research Division.~~

32 "~~**SECTION 10.59.(d)** The Department of Health and Human Services shall recommend~~
33 ~~rates for State County Special Assistance and for Adult Care Home Personal Care Services.~~
34 ~~The Department may recommend rates based on appropriate cost methodology and cost reports~~
35 ~~submitted by adult care homes that receive State County Special Assistance funds and shall~~
36 ~~ensure that cost reporting is done for State County Special Assistance and Adult Care Home~~
37 ~~Personal Care Services to the same standards as apply to other residential service providers."~~

38 **SECTION 10.23.(h)** This section becomes effective February 15, 2013.

40 **TRANSITIONS TO COMMUNITY LIVING INITIATIVE**

41 **SECTION 10.23A.(a)** The General Assembly finds that the State's long-term care
42 industry plays a vital role in ensuring that citizens are afforded opportunities for safe housing
43 and adequate client-centered supports in order to live as independently as possible in their
44 homes and communities across the State. This role is consistent with citizens of the State
45 having the opportunity to live in the most appropriate, integrated settings of their choice. The
46 General Assembly also is committed to the development of a plan that continues to advance the
47 State's current system into a statewide system of person-centered, affordable services and
48 supports that emphasize an individual's dignity, choice, and independence and provides new
49 opportunities and increased capacity for community housing and community supports.

50 **SECTION 10.23A.(b)** Blue Ribbon Commission on Transitions to Community
51 Living. – There is established the Blue Ribbon Commission on Transitions to Community
52 Living (Commission). The Commission shall (i) examine the State's system of community
53 housing and community supports for people with severe mental illness, severe and persistent
54 mental illness, and intellectual and developmental disabilities and (ii) develop a plan that
55 continues to advance the State's current system into a statewide system of person-centered,
56 affordable services and supports that emphasize an individual's dignity, choice, and
57 independence. In the execution of its duties, the Commission shall consider the following:

- 1 (1) Policies that alter the State's current practices with respect to institutionally
2 based services to community-based services delivered as close to an
3 individual's home and family as possible.
- 4 (2) Best practices in both the public and private sectors in managing and
5 administering long-term care to individuals with disabilities.
- 6 (3) An array of services and supports for people with severe mental illness and
7 severe and persistent mental illness, such as respite, community-based
8 supported housing and community-based mental health services, to include
9 evidence-based, person-centered recovery supports and crisis services and
10 supported employment.
- 11 (4) For adults with intellectual and other developmental disabilities, expansion
12 of community-based services and supports, housing options, and supported
13 work. Maximize the use of habilitation services that may be available via the
14 Medicaid "I" option for individuals who do not meet the ICF-MR level of
15 need.
- 16 (5) Methods to responsibly manage the growth in long-term care spending,
17 including use of Medicaid waivers.
- 18 (6) Options for repurposing existing resources while considering the diverse
19 economic challenges in communities across the State.
- 20 (7) Opportunities for systemic change and maximization of housing, and service
21 and supports funding streams, including State-County Special Assistance
22 and the State's Medicaid program.
- 23 (8) The appropriate role of adult care homes and other residential settings in the
24 State.
- 25 (9) Other resources that might be leveraged to enhance reform efforts.

26 **SECTION 10.23A.(c)** The Commission shall be composed of 32 members as

27 follows:

- 28 (1) Six members of the House of Representatives appointed by the Speaker of
29 the House of Representatives.
- 30 (2) Six members of the Senate appointed by the President Pro Tempore of the
31 Senate.
- 32 (3) Secretary of the Department of Health and Human Services (DHHS) or the
33 Secretary's designee.
- 34 (4) Director of the Housing Finance Agency or the Director's designee.
- 35 (5) Director of the Division of Mental Health, Developmental Disabilities, and
36 Substance Abuse Services of DHHS or the Director's designee.
- 37 (6) Director of the Division of Medical Assistance of DHHS or the Director's
38 designee.
- 39 (7) Two mental health consumers or their family representatives.
- 40 (8) Two developmental disabilities consumers or their family representatives.
- 41 (9) Two persons in the field of banking or representing a financial institution
42 with housing finance expertise.
- 43 (10) Two representatives of local management entities/managed care
44 organizations.
- 45 (11) A county government representative.
- 46 (12) A North Carolina Association, Long Term Care Facilities representative.
- 47 (13) A North Carolina Assisted Living Association representative.
- 48 (14) A family care home representative.
- 49 (15) A representative of group homes for adults with developmental disabilities.
- 50 (16) A representative of group homes for individuals with mental illness.
- 51 (17) Two representatives of service providers with proven experience in
52 innovated housing and support services in the State.

53 The Secretary of the Department of Health and Human Services shall ensure
54 adequate staff representation and support from the following: Division of Mental Health,
55 Developmental Disabilities and Substance Abuse Services, Division of Aging and Adult
56 Services, Division of Health Services Regulations, Division of Social Services, and other areas
57 as needed.

58 The Commission shall appoint a Subcommittee on Housing composed of 15
59 members and a Subcommittee on Adult Care Homes.

1 The chairs shall jointly appoint members described in subdivisions (7) through (17)
2 of this subsection and shall fill vacancies in those positions. The Commission shall meet at the
3 call of the chairs. Members of the Commission shall receive per diem, subsistence, and travel
4 expenses as provided in G.S. 120-3.1, 138-5, or 138-6, as appropriate. The Commission may
5 contract for consultant services as provided in G.S. 120-32.02. Upon approval of the
6 Legislative Services Commission, the Legislative Services Officer shall assign professional
7 staff to assist the Commission in its work. Clerical staff shall be furnished to the Commission
8 through the offices of the House of Representatives and Senate Directors of Legislative
9 Assistants. The Commission may meet in the Legislative Building or the Legislative Office
10 Building. The Commission may exercise all of the powers provided under G.S. 120-19 through
11 G.S. 120-19.4 while in the discharge of its official duties. The funds needed to support the cost
12 of the Commission's work shall be transferred from the Department of Health and Human
13 Services upon request of the Legislative Services Director.

14 **SECTION 10.23A.(d)** Transitions to Community Living Fund. – There is
15 established the Transitions to Community Living Fund (Fund) to facilitate implementation of
16 the plans required in subsections (e) and (f) of this section.

17 **SECTION 10.23A.(e)** Of the amount appropriated to the Fund established in
18 subsection (d) of this section, the sum of ten million three hundred thousand dollars
19 (\$10,300,000) is appropriated to support the Department of Health and Human Services in its
20 plan for transitioning individuals with severe mental illness and severe and persistent mental
21 illness into community living arrangements, including establishing a rental assistance program.
22 If the State executes an agreement with the U.S. Department of Justice (USDOJ) in response to
23 the USDOJ findings dated July 28, 2011, or implements a plan in response to the USDOJ
24 findings, these funds shall be used to implement the requirements of the first year of the
25 agreement or the plan. In the event such an agreement is reached, a recurring appropriation will
26 be necessary to fully implement it. The Department may issue temporary rules to implement
27 this subsection.

28 **SECTION 10.23A.(f)** Of the amount appropriated to the Fund established in
29 subsection (d) of this section, the sum of thirty-nine million seven hundred thousand dollars
30 (\$39,700,000) is designated for implementation of the State's plan to provide temporary,
31 short-term assistance to adult care homes as they transition into the State's Transitions to
32 Community Living Initiative. The General Assembly recognizes that while transformation of
33 the system is being undertaken, adult care homes provide stable and safe housing and care to
34 many of North Carolina's frail and elderly population, and it is necessary during this time of
35 transition and transformation of the statewide system that the industry remain able to provide
36 such care.

37 Upon certification by the Department of Health and Human Services, in consultation with a
38 local adult care home resident discharge team, as defined in G.S. 131D-2.1(3a), that a resident
39 who is no longer eligible to receive Medicaid reimbursable assistance and for whom a
40 community placement has not yet been arranged cannot be safely and timely discharged into
41 the community, the Department may make a monthly payment to the adult care home to
42 support the facility's continuing provision of services to the resident. The monthly payment
43 provided by the Department to an adult care home pursuant to this subsection shall not exceed
44 six hundred ninety-four dollars (\$694) per month per resident for a period not to exceed three
45 months for each resident. At the expiration of this three-month period, the monthly payment
46 shall be reduced by twenty-five percent (25%) and shall not exceed five hundred twenty dollars
47 and fifty cents (\$520.50) per month per resident. Upon implementation of the home-and
48 community-based services program for elderly individuals typically served in special care or
49 memory care units, to be developed by the Department under Medicaid State Plan 1915(i)
50 authority pursuant to Section 10.9E of this act, the Department shall terminate all monthly
51 payments pursuant to this subsection for continuing services provided to residents of special
52 care or memory care units. The Department shall terminate all monthly payments pursuant to
53 this subsection on June 30, 2013. Notwithstanding any other provision of this subsection, the
54 Department is prohibited from making any monthly payments under this subsection to an adult
55 care home for services provided to any resident during the pendency of an appeal by or on
56 behalf of the resident under G.S. 108A-70.9A.

57 The Department of Health and Human Services shall administer these funds but
58 may, as needed, contract with a vendor for administration.

1 **SECTION 10.23A.(g)** The Department shall report its progress in complying with
 2 subsection (e) of this section to the Joint Legislative Oversight Committee on Health and
 3 Human Services and the Fiscal Research Division no later than January 2, 2013, and submit a
 4 final report no later than April 1, 2013.

5 **SECTION 10.23A.(h)** The Commission shall issue an interim report by October 1,
 6 2012, and a final plan to the 2013 General Assembly no later than February 1, 2013, at which
 7 time the Commission shall expire.

8 **SECTION 10.23A.(i)** Subsection (f) of this section expires on June 30, 2013, and
 9 any unobligated funds designated for the purposes of that subsection shall revert to the
 10 Transitions to Community Living Fund established in subsection (d) of this section.

11 **SECTION 10.23A.(j)** Nothing in subsection (d), (e), or (f) of this section is
 12 intended to create or shall be construed to create a right or entitlement for any individual,
 13 facility, or provider of services.
 14

15 **TELECOMMUNICATIONS RELAY SERVICE**

16 **SECTION 10.24.(a)** G.S. 62-157(d1) reads as rewritten:

17 "(d1) The Department of Health and Human Services shall utilize revenues from the
 18 wireless surcharge collected under subsection (i) of this section to ~~fund the Regional Resource~~
 19 ~~Centers within support~~ the Division of Services for the Deaf and the Hard of Hearing, in
 20 accordance with G.S. 143B-216.33, G.S. 143B-216.34, and Chapter 8B of the General
 21 Statutes."

22 **SECTION 10.24.(b)** G.S. 62-157(e) reads as rewritten:

23 "(e) Administration of Service. – The Department of Health and Human Services shall
 24 administer the statewide telecommunications relay service program, including its
 25 establishment, operation, and promotion. The Department may contract out the provision of
 26 this service for four-year periods to one or more service providers, using the provisions of
 27 G.S. 143-129. The Department shall administer all programs and services, including the
 28 Regional Resource Centers within the Division of Services for the Deaf and the Hard of
 29 Hearing in accordance with G.S. 143B-216.33, G.S. 143B-216.34, and Chapter 8B of the
 30 General Statutes."
 31

32 **DHHS BLOCK GRANTS**

33 **SECTION 10.25.(a)** Appropriations from federal block grant funds are made for
 34 the fiscal year ending June 30, 2013, according to the following schedule:
 35

36 **TEMPORARY ASSISTANCE TO NEEDY FAMILIES**
 37 **(TANF) FUNDS**
 38

39 Local Program Expenditures

40 Division of Social Services

41		
42		
43	01. Work First Family Assistance	\$ 60,285,413
44		
45	02. Work First County Block Grants	83,386,330
46		
47	03. Work First Electing Counties	2,378,213
48		
49	04. Adoption Services – Special Children's Adoption Fund	2,026,877
50		
51	05. Child Protective Services – Child Welfare	
52	Workers for Local DSS	14,452,391
53		
54	06. Child Welfare Collaborative	754,115
55		

56 Division of Child Development

57		
58	07. Subsidized Child Care Program	59,645,662
59		

1	08. Swap Child Care Subsidy	6,352,644
2		
3	Division of Public Health	
4		
5	09. Teen Pregnancy Initiatives	2,500,000
6		
7	DHHS Administration	
8		
9	10. Division of Social Services	2,482,260
10		
11	11. Office of the Secretary	34,042
12		
13	Transfers to Other Block Grants	
14		
15	Division of Child Development	
16		
17	12. Transfer to the Child Care and Development Fund	71,773,001
18		
19	13. Transfer to Social Services Block Grant for Child	
20	Protective Services – Child Welfare Training in	
21	Counties	1,300,000
22		
23	14. Transfer to Social Services Block Grant for Child	
24	Protective Services	5,040,000
25		
26	15. Transfer to Social Services Block Grant for County	
27	Departments of Social Services for Children's Services	4,148,001
28		
29	TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES	
30	(TANF) FUNDS	\$ 316,558,949
31		
32	TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF)	
33	EMERGENCY CONTINGENCY FUNDS	
34		
35	Local Program Expenditures	
36		
37	Division of Social Services	
38		
39	01. Work First County Block Grants	\$ 11,066,985
40		
41	TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF)	
42	EMERGENCY CONTINGENCY FUNDS	\$ 11,066,985
43		
44	SOCIAL SERVICES BLOCK GRANT	
45		
46	Local Program Expenditures	
47		
48	Divisions of Social Services and Aging and Adult Services	
49		
50	01. County Departments of Social Services	\$ 32,249,206
51	(Transfer from TANF \$4,148,001)	
52		
53	02. Child Protective Services (Transfer from TANF)	5,040,000
54		
55	03. State In-Home Services Fund	2,101,113
56		
57	04. Adult Protective Services	1,346,047
58		
59	05. State Adult Day Care Fund	2,155,301

1		
2	06.	Child Protective Services/CPS Investigative Services-
3		Child Medical Evaluation Program (Carousel Center for
4		Abused Children \$134,592)
5		744,047
6	07.	Special Children Adoption Incentive Fund
7		500,000
8	08.	Child Protective Services-Child Welfare Training
9		for Counties (Transfer from TANF)
10		1,300,000
11	09.	Home and Community Care Block Grant (HCCBG)
12		1,834,077
13	10.	Maternity Homes
14		925,085
15	11.	Child Advocacy Centers
16		375,000
17	12.	Work First – Boys and Girls Clubs
18		2,452,500
19	13.	Food Banks
20		1,000,000
21	14.	Child Care Subsidy
22		2,598,319
23	15.	Guardianship
24		4,356,604
25	16.	UNC Cares Contract
26		247,920
27	16A.	Foster Care Services
28		1,497,138
29		Division of Public Health
30		
31	16B.	Tobacco Cessation
32		2,728,000
33	18.	Prevent Blindness
34		150,000
35		Division of Vocational Rehabilitation
36		
37	19.	Vocational Rehabilitation Services – Easter Seal Society/UCP
38		Community Health Program
39		188,263
40		Division of Central Management and Support
41		
42	19A.	ALS Association Jim "Catfish" Hunter Chapter
43		400,000
44		DHHS Program Expenditures
45		
46		Division of Services for the Blind
47		
48	20.	Independent Living Program
49		3,633,077
50	21.	Accessible Electronic Information for Blind and Disabled Persons
51		75,000
52		Division of Health Service Regulation
53		
54	22.	Adult Care Licensure Program
55		411,897
56	23.	Mental Health Licensure and Certification Program
57		205,668
58		DHHS Administration
59		

1	24.	Division of Aging and Adult Services	624,454
2			
3	25.	Division of Social Services	604,311
4			
5	26.	Office of the Secretary/Controller's Office	138,058
6			
7	27.	Division of Child Development	15,000
8			
9	28.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	29,665
10			
11			
12	29.	Division of Health Service Regulation	128,562
13			
14	TOTAL SOCIAL SERVICES BLOCK GRANT		\$ 68,257,174
15			
16	LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT		
17			
18	Local Program Expenditures		
19			
20	Division of Social Services		
21			
22	01.	Low-Income Energy Assistance Program (LIEAP)	\$ 14,688,575
23			
24	02.	Crisis Intervention Program (CIP)	33,255,130
25			
26	Local Administration		
27			
28	Division of Social Services		
29			
30	03.	County DSS Administration	4,444,717
31			
32	DHHS Administration		
33			
34	04.	Office of the Secretary/DIRM	219,490
35			
36	05.	Office of the Secretary/Controller's Office	9,779
37			
38	Transfers to Other State Agencies		
39			
40	Department of Commerce		
41			
42	06.	Weatherization Program	8,464,517
43			
44	07.	Heating Air Repair and Replacement Program (HARRP)	4,073,690
45			
46			
47	08.	Local Residential Energy Efficiency Service Providers – Weatherization	19,825
48			
49			
50	09.	Local Residential Energy Efficiency Service Providers – HARRP	180,041
51			
52			
53	10.	Department of Commerce Administration – Weatherization	19,825
54			
55			
56	11.	Department of Commerce Administration – HARRP	180,041
57			
58			
59	Department of Administration		

1		
2	12. N.C. Commission on Indian Affairs	87,736
3		
4	TOTAL LOW-INCOME HOME ENERGY ASSISTANCE	
5	BLOCK GRANT	\$ 65,643,366
6		
7	CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT	
8		
9	Local Program Expenditures	
10		
11	Division of Child Development	
12		
13	01. Child Care Services	
14	(Smart Start \$7,000,000)	\$ 154,695,081
15		
16	02. Electronic Tracking System	3,000,000
17		
18	03. Transfer from TANF Block Grant	
19	for Child Care Subsidies	71,773,001
20		
21	04. Quality and Availability Initiatives	26,484,816
22	(TEACH Program \$3,800,000)	
23		
24	DHHS Administration	
25		
26	Division of Child Development	
27		
28	05. DCDEE Administrative Expenses	6,000,000
29		
30	06. Local Subsidized Child Care Services Support	
31	(4% Administrative Allowance)	15,898,602
32		
33	Division of Central Administration	
34		
35	07. DHHS Central Administration – DIRM	
36	Technical Services	775,000
37		
38	TOTAL CHILD CARE AND DEVELOPMENT FUND	
39	BLOCK GRANT	\$ 278,626,500
40		
41	MENTAL HEALTH SERVICES BLOCK GRANT	
42		
43	Local Program Expenditures	
44		
45	01. Mental Health Services – Adult	\$ 8,870,595
46		
47	02. Mental Health Services – Child	5,121,991
48		
49	03. Administration	100,000
50		
51	TOTAL MENTAL HEALTH SERVICES BLOCK GRANT	\$ 14,092,586
52		
53	SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT	
54		
55	Local Program Expenditures	
56		
57	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	
58		
59	01. Substance Abuse Services – Adult	\$ 15,328,802

1			
2	02.	Substance Abuse Treatment Alternative for Women	6,050,300
3			
4	03.	Substance Abuse – HIV and IV Drug	3,919,723
5			
6	04.	Substance Abuse Prevention – Child	7,186,857
7			
8	05.	Substance Abuse Services – Child	4,940,500
9			
10	06.	Administration	454,000
11			
12		Division of Public Health	
13			
14	07.	Risk Reduction Projects	575,654
15			
16	08.	Aid-to-Counties	190,295
17			
18		TOTAL SUBSTANCE ABUSE PREVENTION	
19		AND TREATMENT BLOCK GRANT	\$ 38,646,131
20			
21		MATERNAL AND CHILD HEALTH BLOCK GRANT	
22			
23		Local Program Expenditures	
24			
25		Division of Public Health	
26			
27	01.	Children's Health Services	\$ 8,487,547
28			
29	02.	Women's Health	
30		(March of Dimes \$350,000; Teen Pregnancy	
31		Prevention Initiatives \$650,000; Perinatal	
32		Quality Collaborative \$250,000; 17P Project \$47,000)	8,404,244
33			
34	03.	Oral Health	42,268
35			
36		DHHS Program Expenditures	
37			
38		Division of Public Health	
39			
40	04.	Children's Health Services	1,250,000
41			
42	05.	Women's Health	136,628
43			
44	06.	State Center for Health Statistics	164,318
45			
46	07.	Quality Improvement in Public Health	2,774
47			
48	08.	Health Promotion	89,374
49			
50		DHHS Administration	
51			
52		Division of Public Health	
53			
54	09.	Division of Public Health Administration	600,000
55			
56		TOTAL MATERNAL AND CHILD	
57		HEALTH BLOCK GRANT	\$ 19,259,071
58			
59		PREVENTIVE HEALTH SERVICES BLOCK GRANT	

1		
2	Local Program Expenditures	
3		
4	Division of Public Health	
5		
6	01. HIV/STD Prevention and Community Planning	
7	(Transfer from Social Services Block Grant)	180,470
8		
9	DHHS Program Expenditures	
10		
11	Division of Public Health	
12		
13	02. State Center for Health Statistics	160,000
14		
15	TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT	\$ 340,470

COMMUNITY SERVICES BLOCK GRANT

16		
17	COMMUNITY SERVICES BLOCK GRANT	
18		
19	Local Program Expenditures	
20		
21	Office of Economic Opportunity	
22		
23	01. Community Action Agencies	\$ 18,075,488
24		
25	02. Limited Purpose Agencies	1,004,194
26		
27	DHHS Administration	
28		
29	03. Office of Economic Opportunity	1,004,194
30		
31	TOTAL COMMUNITY SERVICES BLOCK GRANT	\$ 20,083,876

GENERAL PROVISIONS

32
33
34 **SECTION 10.25.(b)** Information to Be Included in Block Grant Plans. – The
35 Department of Health and Human Services shall submit a separate plan for each Block Grant
36 received and administered by the Department, and each plan shall include the following:

- 37 (1) A delineation of the proposed allocations by program or activity, including
- 38 State and federal match requirements.
- 39 (2) A delineation of the proposed State and local administrative expenditures.
- 40 (3) An identification of all new positions to be established through the Block
- 41 Grant, including permanent, temporary, and time-limited positions.
- 42 (4) A comparison of the proposed allocations by program or activity with two
- 43 prior years' program and activity budgets and two prior years' actual program
- 44 or activity expenditures.
- 45 (5) A projection of current year expenditures by program or activity.
- 46 (6) A projection of federal Block Grant funds available, including unspent
- 47 federal funds from the current and prior fiscal years.

48 **SECTION 10.25.(c)** Changes in Federal Fund Availability. – If the Congress of the
49 United States increases the federal fund availability for any of the Block Grants or contingency
50 funds and other grants related to existing Block Grants administered by the Department of
51 Health and Human Services from the amounts appropriated in this section, the Department
52 shall allocate the increase proportionally across the program and activity appropriations
53 identified for that Block Grant in this section. In allocating an increase in federal fund
54 availability, the Office of State Budget and Management shall not approve funding for new
55 programs or activities not appropriated in this section.

56 If the Congress of the United States decreases the federal fund availability for any of
57 the Block Grants or contingency funds and other grants related to existing Block Grants
58 administered by the Department of Health and Human Services from the amounts appropriated

1 in this section, the Department shall develop a plan to adjust the block grants based on reduced
2 federal funding.

3 Notwithstanding the provisions of this subsection, for the 2012-2013 fiscal year,
4 increases in the federal fund availability for the Temporary Assistance to Needy Families
5 (TANF) Block Grant shall be used for the North Carolina Child Care Subsidy program to pay
6 for child care in four- or five-star rated facilities for four-year-old children.

7 Prior to allocating the change in federal fund availability, the proposed allocation
8 must be approved by the Office of State Budget and Management. If the Department adjusts the
9 allocation of any Block Grant due to changes in federal fund availability, then a report shall be
10 made to the Joint Legislative Commission on Governmental Operations, the House of
11 Representatives Appropriations Subcommittee on Health and Human Services, the Senate
12 Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

13 **SECTION 10.25.(d)** Appropriations from federal Block Grant funds are made for
14 the fiscal year ending June 30, 2013, according to the schedule enacted for State fiscal year
15 2012-2013 or until a new schedule is enacted by the General Assembly.

16 **SECTION 10.25.(e)** All changes to the budgeted allocations to the Block Grants or
17 contingency funds and other grants related to existing Block Grants administered by the
18 Department of Health and Human Services that are not specifically addressed in this section
19 shall be approved by the Office of State Budget and Management, and the Office of State
20 Budget and Management shall consult with the Joint Legislative Commission on Governmental
21 Operations for review prior to implementing the changes. The report shall include an itemized
22 listing of affected programs, including associated changes in budgeted allocations. All changes
23 to the budgeted allocations to the Block Grants shall be reported immediately to the House of
24 Representatives Appropriations Subcommittee on Health and Human Services, the Senate
25 Appropriations Committee on Health and Human Services, and the Fiscal Research Division.
26 This subsection does not apply to Block Grant changes caused by legislative salary increases
27 and benefit adjustments.

28 **SECTION 10.25.(f)** If the Preventive Health Services Block Grant is funded at the
29 federal level and the State receives a block grant for Preventive Health Services, the 2011-2012
30 allocation plan shall remain in effect for the 2012-2013 fiscal year.

31 **TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) FUNDS**

32 **SECTION 10.25.(g)** The sum of eighty-three million three hundred eighty-six
33 thousand three hundred thirty dollars (\$83,386,330) appropriated in this section in TANF funds
34 to the Department of Health and Human Services, Division of Social Services, for the
35 2012-2013 fiscal year shall be used for Work First County Block Grants. The Division shall
36 certify these funds in the appropriate State-level services based on prior year actual
37 expenditures. The Division has the authority to realign the authorized budget for these funds
38 among the State-level services based on current year actual expenditures.

39 **SECTION 10.25.(h)** The sum of two million four hundred eighty-two thousand
40 two hundred sixty dollars (\$2,482,260) appropriated in this section in TANF funds to the
41 Department of Health and Human Services, Division of Social Services, for the 2012-2013
42 fiscal year shall be used to support administration of TANF-funded programs.

43 **SECTION 10.25.(i)** The sum of fourteen million four hundred fifty-two thousand
44 three hundred ninety-one dollars (\$14,452,391) appropriated in this section to the Department
45 of Health and Human Services, Division of Social Services, in TANF funds for the 2012-2013
46 fiscal year for child welfare improvements shall be allocated to the county departments of
47 social services for hiring or contracting staff to investigate and provide services in Child
48 Protective Services cases; to provide foster care and support services; to recruit, train, license,
49 and support prospective foster and adoptive families; and to provide interstate and
50 post-adoption services for eligible families.

51 Counties shall maintain their level of expenditures in local funds for Child
52 Protective Services' workers. Of the block grant funds appropriated for Child Protective
53 Services' workers, the total expenditures from State and local funds for the 2012-2013 fiscal
54 year shall not be less than the total expended from State and local funds for the 2011-2012
55 fiscal year.

56 **SECTION 10.25.(j)** The sum of two million twenty-six thousand eight hundred
57 seventy-seven dollars (\$2,026,877) appropriated in this section in TANF funds to the
58 Department of Health and Human Services, Special Children Adoption Fund, for the
59

1 2012-2013 fiscal year shall be used in accordance with G.S. 108A-50.2, as enacted in Section
2 10.48 of S.L. 2009-451. The Division of Social Services, in consultation with the North
3 Carolina Association of County Directors of Social Services and representatives of licensed
4 private adoption agencies, shall develop guidelines for the awarding of funds to licensed public
5 and private adoption agencies upon the adoption of children described in G.S. 108A-50 and in
6 foster care. Payments received from the Special Children Adoption Fund by participating
7 agencies shall be used exclusively to enhance the adoption services program. No local match
8 shall be required as a condition for receipt of these funds.

9 **SECTION 10.25.(k)** The sum of seven hundred fifty-four thousand one hundred
10 fifteen dollars (\$754,115) appropriated in this section to the Department of Health and Human
11 Services in TANF funds for the 2012-2013 fiscal year shall be used to continue support for the
12 Child Welfare Collaborative.
13

14 **SOCIAL SERVICES BLOCK GRANT**

15 **SECTION 10.25.(l)** The sum of thirty-two million two hundred forty-nine
16 thousand two hundred six dollars (\$32,249,206) appropriated in this section in the Social
17 Services Block Grant to the Department of Health and Human Services, Division of Social
18 Services, for the 2012-2013 fiscal year shall be used for County Block Grants. The Division
19 shall certify these funds in the appropriate State-level services based on prior year actual
20 expenditures. The Division has the authority to realign the authorized budget for these funds
21 among the State-level services based on current year actual expenditures.

22 **SECTION 10.25.(m)** The sum of one million three hundred thousand dollars
23 (\$1,300,000) appropriated in this section in the Social Services Block Grant to the Department
24 of Health and Human Services, Division of Social Services, for the 2012-2013 fiscal year shall
25 be used to support various child welfare training projects as follows:

- 26 (1) Provide a regional training center in southeastern North Carolina.
- 27 (2) Provide training for residential child caring facilities.
- 28 (3) Provide for various other child welfare training initiatives.

29 **SECTION 10.25.(n)** The Department of Health and Human Services is authorized,
30 subject to the approval of the Office of State Budget and Management, to transfer Social
31 Services Block Grant funding allocated for departmental administration between divisions that
32 have received administrative allocations from the Social Services Block Grant.

33 **SECTION 10.25.(o)** Social Services Block Grant funds appropriated for the
34 Special Children's Adoption Incentive Fund will require a fifty percent (50%) local match.

35 **SECTION 10.25.(p)** The sum of five million forty thousand dollars (\$5,040,000)
36 appropriated in this section in the Social Services Block Grant for the 2012-2013 fiscal year
37 shall be allocated to the Department of Health and Human Services, Division of Social
38 Services. The Division shall allocate these funds to local departments of social services to
39 replace the loss of Child Protective Services State funds that are currently used by county
40 government to pay for Child Protective Services staff at the local level. These funds shall be
41 used to maintain the number of Child Protective Services workers throughout the State. These
42 Social Services Block Grant funds shall be used to pay for salaries and related expenses only
43 and are exempt from 10A NCAC 71R .0201(3) requiring a local match of twenty-five percent
44 (25%).

45 **SECTION 10.25.(q)** The sum of two million four hundred fifty-two thousand five
46 hundred dollars (\$2,452,500) appropriated in this section to the Department of Health and
47 Human Services, Division of Social Services, in the Social Services Block Grant for Boys and
48 Girls Clubs for the 2012-2013 fiscal year shall be used to make grants for approved programs.
49 The Department of Health and Human Services, in accordance with federal regulations for the
50 use of Social Services Block Grant funds, shall administer a grant program to award funds to
51 the Boys and Girls Clubs across the State in order to implement programs that improve the
52 motivation, performance, and self-esteem of youths and to implement other initiatives that
53 would be expected to reduce gang participation, school dropout, and teen pregnancy rates. The
54 Department shall facilitate collaboration between the Boys and Girls Clubs and Support Our
55 Students, Communities in Schools, and similar programs and encourage them to submit joint
56 applications for the funds if appropriate. These funds are exempt from the provisions of 10A
57 NCAC 71R .0201(3).

58 **SECTION 10.25.(r)** The sum of nine hundred twenty-five thousand eighty-five
59 dollars (\$925,085) appropriated in this section in the Social Services Block Grant for the

1 2012-2013 fiscal year to the Department of Health and Human Services, Division of Social
2 Services, shall be used for maternity homes. These funds are exempt from the provisions of
3 10A NCAC 71R .0201(3).

4 **SECTION 10.25.(s)** The sum of one hundred fifty thousand dollars (\$150,000)
5 appropriated in this section in the Social Services Block Grant for the 2012-2013 fiscal year to
6 the Department of Health and Human Services, Division of Public Health, shall be allocated to
7 Prevent Blindness North Carolina to be used for direct service programs. These funds are
8 exempt from the provisions of 10A NCAC 71R .0201(3).

9 **SECTION 10.25.(s1)** The sum of four hundred thousand dollars (\$400,000)
10 appropriated in this section in the Social Services Block Grant for the 2012-2013 fiscal year to
11 the Department of Health and Human Services, Division of Central Management and Support,
12 shall be allocated to the ALS Association, Jim "Catfish" Hunter Chapter, to be used to provide
13 patient care and community services to persons with ALS and their families. These funds are
14 exempt from the provisions of 10A NCAC 71R .0201(3).

15 **SECTION 10.25.(t)** The sum of seventy-five thousand dollars (\$75,000)
16 appropriated in this section in the Social Services Block Grant for the 2012-2013 fiscal year to
17 the Department of Health and Human Services, Division of Services for the Blind, shall be
18 used to provide accessible electronic information for blind and disabled persons. These funds
19 are exempt from the provisions of 10A NCAC 71R .0201(3).

20 **SECTION 10.25.(u)** The sum of three hundred seventy-five thousand dollars
21 (\$375,000) appropriated in this section in the Social Services Block Grant for the 2012-2013
22 fiscal year to the Department of Health and Human Services, Division of Social Services, shall
23 be used to continue support for the Child Advocacy Centers and are exempt from the
24 provisions of 10A NCAC 71R .0201(3).

25 **SECTION 10.25.(v)** Social Services Block Grant funds allocated for the
26 2012-2013 fiscal year for child medical evaluations and the Carousel Center for Abused
27 Children are exempt from the provisions of 10A NCAC 71R .0201(3).

28 **SECTION 10.25.(w)** The sum of one million dollars (\$1,000,000) appropriated in
29 this section in the Social Services Block Grant for the 2012-2013 fiscal year to the Department
30 of Health and Human Services, Division of Social Services, shall be allocated to North
31 Carolina Food Bank agencies to be used to purchase and distribute food staples for emergency
32 food assistance. These funds are exempt from the provisions of 10A NCAC 71R .0201(3).

33 **SECTION 10.25.(w1)** The sum of four million three hundred fifty-six thousand six
34 hundred four dollars (\$4,356,604) appropriated in this section in the Social Services Block
35 Grant for the 2012-2013 fiscal year to the Department of Health and Human Services,
36 Divisions of Social Services and Aging and Adult Services, shall be used for guardianship
37 services pursuant to Chapter 35A of the General Statutes. The Department may expend funds
38 appropriated in this section to support (i) existing corporate guardianship contracts during the
39 2012-2013 fiscal year and (ii) guardianship contracts transferred to the State from local
40 management entities or managed care organizations during the 2012-2013 fiscal year.

41 **LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT**

42 **SECTION 10.25.(x)** Additional emergency contingency funds received may be
43 allocated for Energy Assistance Payments or Crisis Intervention Payments without prior
44 consultation with the Joint Legislative Commission on Governmental Operations. Additional
45 funds received shall be reported to the Joint Legislative Commission on Governmental
46 Operations and the Fiscal Research Division upon notification of the award. The Department of
47 Health and Human Services shall not allocate funds for any activities, including increasing
48 administration, other than assistance payments, without prior consultation with the Joint
49 Legislative Commission on Governmental Operations.

50 **SECTION 10.25.(y)** The sum of fourteen million six hundred eighty-eight
51 thousand five hundred seventy-five dollars (\$14,688,575) appropriated in this section in the
52 Low-Income Home Energy Assistance Block Grant for the 2012-2013 fiscal year to the
53 Department of Health and Human Services, Division of Social Services, shall be used for
54 energy assistance payments for the households of (i) elderly persons age 60 and above with
55 income up to one hundred thirty percent (130%) of the federal poverty level and (ii) disabled
56 persons eligible for services funded through the Division of Aging and Adult Services. County
57 departments of social services shall submit to the Division of Social Services an outreach plan
58

1 for targeting households with 60-year-old household members no later than August 1 of each
2 year.
3

4 **CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT**

5 **SECTION 10.25.(z)** Payment for subsidized child care services provided with
6 federal TANF funds shall comply with all regulations and policies issued by the Division of
7 Child Development for the subsidized child care program.

8 **SECTION 10.25.(aa)** If funds appropriated through the Child Care and
9 Development Fund Block Grant for any program cannot be obligated or spent in that program
10 within the obligation or liquidation periods allowed by the federal grants, the Department may
11 move funds to child care subsidies, unless otherwise prohibited by federal requirements of the
12 grant, in order to use the federal funds fully.
13

14 **MATERNAL AND CHILD HEALTH BLOCK GRANT**

15 **SECTION 10.25.(bb)** If federal funds are received under the Maternal and Child
16 Health Block Grant for abstinence education, pursuant to section 912 of Public Law 104-193
17 (42 U.S.C. § 710), for the 2012-2013 fiscal year, then those funds shall be transferred to the
18 State Board of Education to be administered by the Department of Public Instruction. The
19 Department of Public Instruction shall use the funds to establish an abstinence until marriage
20 education program and shall delegate to one or more persons the responsibility of
21 implementing the program and G.S. 115C-81(e1)(4) and (4a). The Department of Public
22 Instruction shall carefully and strictly follow federal guidelines in implementing and
23 administering the abstinence education grant funds.

24 **SECTION 10.25.(cc)** The Department of Health and Human Services shall ensure
25 that there will be follow-up testing in the Newborn Screening Program.
26

27 **PART XI. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

28 **B.R.I.D.G.E. YOUTHFUL OFFENDERS/PRIORITY AND REPORTING**

29 **SECTION 11.1.(a)** The Division of Adult Correction of the Department of Public
30 Safety shall give priority to the B.R.I.D.G.E. Youthful Offenders Program operated in
31 cooperation with the North Carolina Forest Service when assigning youthful offenders from the
32 Western Youth Institution to work programs.
33

34 **SECTION 11.1.(b)** The North Carolina Forest Service shall submit an annual
35 report on the B.R.I.D.G.E. Youthful Offenders Program no later than October 1 of each year
36 beginning October 1, 2012, to the Fiscal Research Division, the Chairs of the House
37 Appropriations Subcommittee on Natural and Economic Resources and the Senate
38 Appropriations Committee on Natural and Economic Resources, the Chairs of the House
39 Appropriations Subcommittee on Justice and Public Safety and the Senate Appropriations
40 Committee on Justice and Public Safety, the Joint Legislative Commission on Governmental
41 Operations, and the Joint Legislative Oversight Committee on Justice and Public Safety. The
42 report shall include the following information for the prior fiscal year:

- 43 (1) The number of youthful offenders within the custody of the Division of
44 Adult Correction eligible for B.R.I.D.G.E.
- 45 (2) The number of youthful offenders participating in B.R.I.D.G.E.
- 46 (3) The average daily participation in B.R.I.D.G.E.
- 47 (4) The average duration of participation in B.R.I.D.G.E.
- 48 (5) Summary of activities of B.R.I.D.G.E. participants.
49

50 **FOREST FIRES/ANNUAL REPORT**

51 **SECTION 11.2.** Article 75 of Chapter 106 of the General Statutes is amended by
52 adding a new section to read:

53 **"§ 106-911. Annual report on wildfires.**

54 No later than October 1 of each year, beginning October 1, 2012, the Commissioner shall
55 submit a written report on wildfires in the State to the chairs of the House Appropriations
56 Subcommittee on Natural and Economic Resources and the Senate Appropriations Committee
57 on Natural and Economic Resources, the Joint Legislative Commission on Governmental
58 Operations, and the Fiscal Research Division of the General Assembly. The report shall include
59 the following information for all major or project wildfires during the prior fiscal year:

- 1 (1) The date, location, and impacts (property damage and any casualties) from
2 the wildfire.
- 3 (2) The following data for firefighters and related support personnel involved in
4 fighting the wildfire:
 - 5 a. Total overtime hours worked.
 - 6 b. Total compensation paid for overtime.
 - 7 c. The portion of compensation paid that was reimbursed to the State.
- 8 (3) The fiscal impact of the wildfire, including total costs, reimbursable costs,
9 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 ...
- 11 (10) To be eligible for cost share funds under this program, each applicant must
12 establish that he or she is engaged in farming by providing any of the
13 following to the Soil and Water Conservation Commission with his or her
14 application a copy of the applicant's federal tax Schedule F (Form 1040) for
15 the most recent tax year showing the applicant's profit or loss from
16 farming-application:
 - 17 a. A copy of the farm owner's or operator's federal tax Schedule F
18 (Form 1040) or an equivalent form for the most recent tax year
19 showing the owner's or operator's profit or loss from farming.
 - 20 b. A copy of the farm's agricultural exemption certificate issued to the
21 farm owner or operator by the Department of Revenue.
 - 22 c. For forestland actively engaged in the commercial growing of trees
23 under a sound management program as defined in G.S. 105-277.2(6),
24 a copy of the sound forest management plan described in
25 G.S. 105-277.3(g).
- 26 (11) In extraordinary circumstances, the Commission may permit an applicant to
27 establish that he or she is engaged in farming with an alternate form of
28 documentation if the farm has a conservation plan that meets the statutory
29 purposes of the program."

SECTION 11.2A.(b) G.S. 139-60 reads as rewritten:

"§ 139-60. Agricultural Water Resources Assistance Program.

30 ...

31 (c1) To be eligible for assistance under this program, each applicant must establish that
32 he or she is engaged in farming by providing to the Soil and Water Conservation Commission
33 with his or her application a copy of the applicant's federal tax Schedule F (Form 1040) for the
34 most recent tax year showing the applicant's profit or loss from farming-application:

- 35 (1) A copy of the farm owner's or operator's federal tax Schedule F (Form 1040)
36 or an equivalent form for the most recent tax year showing the owner's or
37 operator's profit or loss from farming.
- 38 (2) A copy of the farm's agricultural exemption certificate issued to the farm
39 owner or operator by the Department of Revenue.
- 40 (3) For forestland actively engaged in the commercial growing of trees under a
41 sound management program as defined in G.S. 105-277.2(6), a copy of the
42 sound forest management plan described in G.S. 105-277.3(g).

43 (c2) In extraordinary circumstances, the Commission may permit an applicant to
44 establish that he or she is engaged in farming with an alternate form of documentation if the
45 farm has a conservation plan that meets the statutory purposes of the program.
46 "

SOUTHEASTERN NORTH CAROLINA AGRICULTURAL CENTER AND FARMERS MARKET/STUDY OPTIONS

SECTION 11.3.(a) The Department of Agriculture and Consumer Services shall study the operating model of the Southeastern North Carolina Agricultural Center and Farmers Market and recommend alternative operating models. The alternative operating models should

1 be evaluated based on a goal of limiting subsidies from State funds in support of facility
2 operations to no more than fifty percent (50%) of the facility's operating budget. At a
3 minimum, the Department should consider the following alternatives:

- 4 (1) Changing the services provided, with particular emphasis on options for the
5 retail farmers market.
- 6 (2) Pooling staff, resources, and profits between the Center and other similar
7 facilities operated by the Department.
- 8 (3) Contracting with a private entity to operate the Center or some portion of the
9 Center's operations.
- 10 (4) If there is no operating model under which continued operation of the Center
11 is viable with State subsidies limited to fifty percent (50%) or less of the
12 Center's operating budget, options for closure of the Center and alternative
13 uses of the property, including transfer of ownership of some or all of the
14 facilities of the Center to a unit of local government.

15 **SECTION 11.3.(b)** The Department shall report its findings and recommendations
16 to the House Appropriations Subcommittee on Natural and Economic Resources, the Senate
17 Appropriations Committee on Natural and Economic Resources, and the Fiscal Research
18 Division on or before February 1, 2013.

19 RESEARCH STATIONS NONREVERTING FUND

20 **SECTION 11.4.** Article 1 of Chapter 106 of the General Statutes is amended by
21 adding a new section to read:

22 **"§ 106-6.3. Create special revenue fund for research stations.**

23 The Research Stations Fund is established as a special revenue fund within the Department
24 of Agriculture and Consumer Services, Division of Research Stations. This Fund shall consist
25 of receipts from the sale of commodities produced on the Department's research stations and
26 any gifts, bequests, or grants for the benefit of this Fund. No General Fund appropriations shall
27 be credited to this Fund. Any balance remaining in this Fund at the end of any fiscal year shall
28 not revert. The Department may use this Fund only to develop, improve, repair, maintain,
29 operate, or otherwise invest in research stations operated by the Department's Research Station
30 Division."

31 PART XII. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

32 WATER INFRASTRUCTURE FUND CLOSING FEE CONFORMING CHANGES

33 **SECTION 12.01.** G.S. 159G-24 reads as rewritten:

34 **"§ 159G-24. Fee imposed on a loan or grant from ~~Wastewater Reserve or Drinking~~**

35 **~~Water Reserve.~~ Water Infrastructure Fund.**

36 (a) Amount. – A loan awarded from the ~~Wastewater Reserve or the Drinking Water~~
37 ~~Reserve~~ Water Infrastructure Fund is subject to a fee of two ~~and one-half percent (2 ½%)(2%)~~
38 of the loan. A grant awarded from the ~~Wastewater Reserve or the Drinking Water Reserve~~
39 Water Infrastructure Fund is subject to a fee of one and one-half percent (1 ½%) of the grant.
40 The fee is payable when a loan or grant is awarded.

41 (b) Departmental Receipt. – The fee on a loan from the ~~Wastewater Reserve or the~~
42 ~~Drinking Water Reserve~~ Water Infrastructure Fund is a departmental receipt and must be
43 applied to the Department's and the Local Government Commission's costs in administering
44 loans from these Reserves. The Department and the Local Government Commission must
45 determine how to allocate the fee receipts between their agencies. The fee on a grant from the
46 ~~Wastewater Reserve or the Drinking Water Reserve~~ Water Infrastructure Fund is a
47 departmental receipt of the Department and must be applied to the Department's costs in
48 administering grants from these Reserves."
49

50 DENR POSITIONS TO STAFF FOSSIL FUEL OVERSIGHT BODY

51 **SECTION 12.1.** Should Senate Bill 820 of the 2012 Regular Session of the
52 General Assembly become law and require the Department of Environment and Natural
53 Resources to provide staff to the Mining and Energy Commission, then the Department may
54 fund staff positions using savings from reclassifying and consolidating salaries, benefits, and
55 associated operating costs from vacant positions and shall fill these reclassified and
56
57
58

1 consolidated positions in a timely manner in order to provide support for the Mining and
2 Energy Commission.

3 4 **DENR TO CENTRALIZE OVERSIGHT OF ITS REGIONAL OFFICES**

5 **SECTION 12.2.(a)** The Department of Environment and Natural Resources shall
6 centralize and expand its oversight of the Department's regional offices by taking the following
7 actions:

- 8 (1) The Department shall create a mission statement for the regional offices.
- 9 (2) In order to gather comparative data across the regional offices measuring
10 their performance in carrying out their mission, the Department shall expand
11 its existing performance measures pertinent to customer service delivery and
12 process consistency. The expanded performance measures shall include
13 timelines and milestones.
- 14 (3) The Department shall implement a new customer survey during the
15 2012-2013 fiscal year and use the findings of the survey to craft future goals
16 for addressing customer service concerns. In order to consistently track
17 customer service data, the survey shall be repeated every other year.
- 18 (4) The Department shall conduct a review of its regional offices and divisions
19 to identify best practices for ensuring consistency across the Department and
20 create a plan for implementing those best practices across regional offices
21 and divisions.

22 **SECTION 12.2.(b)** The Department shall report no later than February 1, 2013, to
23 the House Appropriations Subcommittee on Natural and Economic Resources, the Senate
24 Appropriations Committee on Natural and Economic Resources, and the Fiscal Research
25 Division regarding (i) its progress, findings, and recommendations regarding the requirements
26 of this section and (ii) its progress in establishing and implementing findings and
27 recommendations regarding its operations from the public listening sessions conducted by the
28 Department in 2011.

29 30 **DRINKING WATER STATE REVOLVING FUND**

31 **SECTION 12.3.** Notwithstanding G.S. 159G-22, the Department of Environment
32 and Natural Resources may transfer State funds from the Drinking Water Reserve to the
33 Drinking Water State Revolving Fund for the 2012-2013 fiscal year. The funds shall be used to
34 match maximum available federal grant moneys authorized by section 1453 of the federal Safe
35 Drinking Water Act of 1996, 42 U.S.C. § 300j-12, as amended.

36 37 **TRANSFER GEODETIC SURVEY SECTION FROM DENR TO THE DIVISION OF 38 EMERGENCY MANAGEMENT OF THE DEPARTMENT OF PUBLIC SAFETY**

39 **SECTION 12.4.(a)** All functions, powers, duties, and obligations previously vested
40 in the Geodetic Survey Section of the Division of Land Resources of the Department of
41 Environment and Natural Resources are transferred to and vested in the Division of Emergency
42 Management of the Department of Public Safety by a Type I transfer, as defined in
43 G.S. 143A-6.

44 **SECTION 12.4.(b)** G.S. 102-1.1 reads as rewritten:

45 **"§ 102-1.1. Name and description in relation to 1983 North American Datum.**

46 From and after the date and time the North Carolina Geodetic Survey Section in the
47 ~~Division of Land Resources of the Department of Environment and Natural Resources~~ Division
48 of Emergency Management of the Department of Public Safety receives from the National
49 Geodetic Survey, official notice of a complete, published definition of the North American
50 Datum of 1983 including the State plane coordinate constants applicable to North Carolina, the
51 official survey base for North Carolina shall be a system of plane coordinates to be known as
52 the "North Carolina Coordinate System of 1983," said system being defined as a Lambert
53 conformal projection of the "Geodetic Reference System (GRS 80 Ellipsoid)" having a central
54 meridian of 79° – 00' west from Greenwich and standard parallels of latitude of 34° – 20' and
55 36° – 10' north of the equator, along which parallels the scale shall be exact. All coordinates of
56 the system are expressed in metres, the x coordinate being measured easterly along the grid and
57 the y coordinate being measured northerly along the grid. The U.S. Survey Foot, 1 meter =
58 39.37 inches or 3.2808333333 feet, shall be used as a conversion factor. The origin of the
59 coordinates is hereby established on the meridian 79° – 00' west from Greenwich at the

1 intersection of the parallels 33° – 45' north latitude, such origin being given the coordinates x =
2 609,601.22 metres, y = 0 metres. The precise position of said system shall be as marked on the
3 ground by triangulation or traverse stations or monuments established in conformity with the
4 standards adopted by the National Geodetic Survey for first- and second-order work, whose
5 geodetic positions have been rigidly adjusted on the North American Datum of 1983, and
6 whose plane coordinates have been computed on the system defined. Whenever plane
7 coordinates are used in the description or identification of surface area or location within this
8 State, the coordinates shall be identified as "NAD 83", indicating North American Datum of
9 1983, or as "NAD 27", indicating North American Datum of 1927."

10 **SECTION 12.4.(c)** G.S. 102-8 reads as rewritten:

11 **"§ 102-8. Administrative agency.**

12 The administrative agency of the North Carolina Coordinate System shall be the
13 ~~Department of Environment and Natural Resources~~ Department of Public Safety through its
14 appropriate division hereinafter called the "agency."

15 **SECTION 12.4.(d)** G.S. 102-10 reads as rewritten:

16 **"§ 102-10. Prior work.**

17 The system of stations, monuments, traverses, computations, and other work which has
18 been done or is under way in North Carolina by the so-called North Carolina Geodetic Survey,
19 under the supervision of the United States Coast and Geodetic Survey, is, where consistent with
20 the provisions of this Chapter, hereby made a part of the North Carolina Coordinate System.
21 The surveys, notes, computations, monuments, stations, and all other work relating to the
22 coordinate system, which has been done by said North Carolina Geodetic Survey, under the
23 supervision of and in cooperation with the United States Coast and Geodetic Survey and federal
24 relief agencies, hereby are placed under the direction of, and shall become the property of, the
25 administrative agency. All persons or agencies having in their possession any surveys, notes,
26 computations, or other data pertaining to the aforementioned coordinate system, shall turn over
27 to the Department of ~~Environment and Natural Resources~~ Public Safety such data upon
28 request."

29 **SECTION 12.4.(e)** G.S. 102-12 reads as rewritten:

30 **"§ 102-12. Control system map.**

31 The agency shall prepare for publication and cause to be ~~published before July 1,~~
32 ~~1962,~~ published a map or maps setting forth the location of monuments for both horizontal and
33 vertical control, together with such other pertinent data as the agency may direct for
34 implementation of the North Carolina Coordinate System. The agency shall furnish such map
35 or maps to any person or may make such charge as will defray the expense of printing and
36 distribution. It shall be the responsibility of the agency to maintain this map, make revisions as
37 often as necessary to provide up-to-date information and furnish up-to-date copies to the
38 register of deeds of each county in the State."

39 **SECTION 12.4.(f)** G.S. 47-30(f) reads as rewritten:

40 **"§ 47-30. Plats and subdivisions; mapping requirements.**

41 ...
42 (f) Plat to Contain Specific Information. – Every plat shall contain the following
43 specific information:

- 44 ...
45 (9) Where the plat is the result of a survey, one or more corners shall, by a
46 system of azimuths or courses and distances, be accurately tied to and
47 coordinated with a horizontal control monument of some United States or
48 State Agency survey system, such as the North Carolina Geodetic Survey
49 where the monument is within 2,000 feet of the subject property. Where the
50 North Carolina Grid System coordinates of the monument are on file in the
51 North Carolina Geodetic Survey Section in the ~~Division of Land Resources~~
52 ~~of the Department of Environment and Natural Resources,~~ Division of
53 Emergency Management of the Department of Public Safety, the coordinates
54 of both the referenced corner and the monuments used shall be shown in X
55 (easting) and Y (northing) coordinates on the plat. The coordinates shall be
56 identified as based on "NAD 83," indicating North American Datum of
57 1983, or as "NAD 27," indicating North American Datum of 1927. The tie
58 lines to the monuments shall also be sufficient to establish true north or grid
59 north bearings for the plat if the monuments exist in pairs. Within a

1 previously recorded subdivision that has been tied to grid control, control
 2 monuments within the subdivision may be used in lieu of additional ties to
 3 grid control. Within a previously recorded subdivision that has not been tied
 4 to grid control, if horizontal control monuments are available within 2,000
 5 feet, the above requirements shall be met; but in the interest of bearing
 6 consistency with previously recorded plats, existing bearing control should
 7 be used where practical. In the absence of grid control, other appropriate
 8 natural monuments or landmarks shall be used. In all cases, the tie lines shall
 9 be sufficient to accurately reproduce the subject lands from the control or
 10 reference points used.

11 "...."

12 **SECTION 12.4.(g)** Notwithstanding G.S. 147-33.83, the North Carolina Geodetic
 13 Survey Section shall continue to provide free of charge to the Department of Environment and
 14 Natural Resources the services provided by the Section to the Department on or prior to the
 15 effective date of this act, including the following:

- 16 (1) Surveying assistance and expertise, including all of the following:
 - 17 a. Review of survey plats related to development proposals,
 - 18 remediation activities, and redevelopment of contaminated sites.
 - 19 b. Establishment of oyster lease boundaries.
 - 20 c. Surveys of submerged lands.
 - 21 d. Survey activities required to establish the location of mean high
 - 22 water.
- 23 (2) Providing surveying assistance and expertise to the Department of Justice
- 24 related to DENR cases, including expert testimony in administrative
- 25 contested cases or judicial proceedings.
- 26 (3) Providing technical training and assistance to DENR agencies in surveying
- 27 and in the use of GPS and GPS software.
- 28 (4) Reviewing proposed purchases of GPS equipment by DENR agencies.
- 29 (5) Surveying lands managed by or lands proposed for acquisition by DENR
- 30 agencies.

31 **SECTION 12.4.(h)** The Revisor of Statutes shall make the conforming statutory
 32 changes necessary to reflect the transfer under this section. The Revisor of Statutes may, where
 33 necessitated by this section, correct any reference in the General Statutes and make any other
 34 conforming changes.

35 **SECTION 12.4.(i)** Any references in this act to the North Carolina Geodetic
 36 Survey Section of the Division of Land Resources of the Department of Environment and
 37 Natural Resources shall be construed to refer to the North Carolina Geodetic Survey Section of
 38 the Division of Emergency Management of the Department of Public Safety.

40 **PROHIBIT THE CONSTRUCTION OF NEW PIERS/SATELLITE AREAS**

41 **SECTION 12.5.(a)** G.S. 143B-289.44(b) reads as rewritten:

42 "(b) Fund. – The North Carolina Aquariums Fund is hereby created as a special and
 43 nonreverting fund. The North Carolina Aquariums Fund shall be used for repair, renovation,
 44 expansion, maintenance, educational exhibit construction, and operational expenses at existing
 45 aquariums, to pay the debt service and lease payments related to the financing of expansions of
 46 ~~aquariums, including other relevant satellite areas, aquariums,~~ and to match private funds that
 47 are raised for these purposes."

48 **SECTION 12.5.(b)** Notwithstanding G.S. 143B-289.44(b), as rewritten by
 49 subsection (a) of this section, the North Carolina Aquariums Fund may continue to be used for
 50 the North Carolina Aquarium Pier at Nags Head.

51 **SECTION 12.5.(c)** Part 5C of Article 7 of Chapter 143B of the General Statutes is
 52 amended by adding a new section to read:

53 **"§ 143B-289.45. Satellite areas prohibited absent General Assembly authorization.**

54 Notwithstanding any other provision of law, State funds shall not be used for any of the
 55 following purposes unless specifically authorized by the General Assembly:

- 56 (1) Construction of any satellite area.
- 57 (2) Commencement of any capital project in connection with the construction or
- 58 acquisition of any satellite area.
- 59 (3) Operation of any satellite area.

1 For purposes of this section, the term "satellite area" means any property or facility that is
 2 to be operated by the Division of North Carolina Aquariums that is located somewhere other
 3 than on the site of the aquariums at Pine Knoll Shores, Roanoke Island, and Fort Fisher."

4 **SECTION 12.5.(d)** Notwithstanding G.S. 143B-289.45, as enacted by subsection
 5 (c) of this section, the Division of North Carolina Aquariums may continue to operate the North
 6 Carolina Aquarium Pier at Nags Head.

7 **SECTION 12.5.(d1)** Grants for projects with partnering local municipalities
 8 awarded prior to the effective date of this act may be transferred to the local partnering
 9 municipality for completion or fulfillment.

10 **SECTION 12.5.(e)** This section is effective when it becomes law.

11
 12 **WILDLIFE RESOURCES COMMISSION BUDGET**

13 **SECTION 12.6.** The Office of State Budget and Management, the State Controller,
 14 the Fiscal Research Division, and the Wildlife Resources Commission shall jointly implement,
 15 beginning with the 2013-2014 fiscal year, the use of Budget Code 14350 for budgeting the
 16 expenditures and receipts of any Wildlife Resources Commission programs that utilize General
 17 Fund appropriations. Receipts from any source utilized to support programs that receive
 18 General Fund appropriations shall be expended from Budget Code 14350. It is the intent of the
 19 General Assembly that the budgeting change required by this section not adversely impact
 20 current federal funding or future funding eligibility. The Governor's Continuation Budget for
 21 the 2013-2014 fiscal year shall present the Wildlife Resources Commission operating budget in
 22 Budget Code 14350.

23
 24 **CLEAN WATER MANAGEMENT TRUST FUND**

25 **SECTION 12.7.(a)** Notwithstanding the provisions of G.S. 113A-253(d), up to
 26 three million dollars (\$3,000,000) may be used for the 2012-2013 fiscal year for the costs of
 27 administering the Clean Water Management Trust Fund, including costs to support the Board
 28 of Trustees of the Clean Water Management Trust Fund and its staff, the operating costs of the
 29 Board of Trustees of the Clean Water Management Trust Fund and its staff, and the costs of
 30 making debt payments to retire debt as provided under G.S. 113A-253(c).

31 **SECTION 12.7.(b)** The Board of Trustees of the Fund shall give priority
 32 consideration to any Clean Water Management Trust Fund application requesting State
 33 matching funds for infrastructure programs and for the Readiness and Environmental
 34 Protection Initiative or any other United States Department of Defense program that provides
 35 for military buffers and protects the overall military training mission.

36
 37 **AQUARIUM BUDGETING CLARIFICATION**

38 **SECTION 12.8.** The Department of Environment and Natural Resources shall
 39 budget all line items related to daily operations of the State aquariums in Budget Code 14300.
 40 The Department may continue to use Budget Code 24300 for special events, activities, debt
 41 service, and other items not related to daily operations of the State aquariums.

42
 43 **PART XIII. DEPARTMENT OF COMMERCE**

44
 45 **NER BLOCK GRANTS**

46 **SECTION 13.1.** Section 14.1 of S.L. 2011-145 reads as rewritten:

47 "**SECTION 14.1.(a)** Appropriations from federal block grant funds are made for the fiscal
 48 year ending ~~June 30, 2012,~~ June 30, 2013, according to the following schedule:

49
 50 **COMMUNITY DEVELOPMENT BLOCK GRANT**

51		
52	01. State Administration	\$ 1,000,000
53		
54	02. State Technical Assistance	450,000
55		
56	03. Scattered Site Housing	8,000,000 <u>7,200,000</u>
57		
58	04. Economic Development	7,210,000 <u>7,000,000</u>
59		

05.	Small Business/Entrepreneurship	3,000,000 <u>2,500,000</u>
06.	NC Catalyst	5,000,000 <u>4,500,000</u>
07.	Infrastructure	19,740,000 <u>20,300,000</u>
08.	Capacity Building	600,000

TOTAL COMMUNITY DEVELOPMENT

BLOCK GRANT – ~~2012~~2013 Program Year \$ ~~45,000,000~~ \$42,500,000

"SECTION 14.1.(b) Decreases in Federal Fund Availability. – If federal funds are reduced below the amounts specified above after the effective date of this act, then every program in each of these federal block grants shall be reduced by the same percentage as the reduction in federal funds.

"SECTION 14.1.(c) Increases in Federal Fund Availability for Community Development Block Grant. – Any block grant funds appropriated by the Congress of the United States in addition to the funds specified in this section shall be expended as follows: each program category under the Community Development Block Grant shall be increased by the same percentage as the increase in federal funds.

"SECTION 14.1.(d) Limitations on Community Development Block Grant Funds. – Of the funds appropriated in this section for the Community Development Block Grant, the following shall be allocated in each category for each program year: up to one million dollars (\$1,000,000) may be used for State Administration; ~~up to four hundred fifty thousand dollars (\$450,000) may be used for State Technical Assistance;~~ up to ~~eight million dollars (\$8,000,000)~~seven million two hundred thousand dollars (\$7,200,000) may be used for Scattered Site Housing; up to ~~seven million two hundred ten thousand dollars (\$7,210,000)~~seven million dollars (\$7,000,000) may be used for Economic Development; up to ~~three million dollars (\$3,000,000)~~two million five hundred thousand dollars (\$2,500,000) may be used for Small Business/Entrepreneurship; up to ~~five million dollars (\$5,000,000)~~four million five hundred thousand dollars (\$4,500,000) shall be used for NC Catalyst; up to ~~nineteen million seven hundred forty thousand dollars (\$19,740,000)~~twenty million three hundred thousand dollars (\$20,300,000) may be used for ~~Infrastructure;~~ ~~up to six hundred thousand dollars (\$600,000) may be used for Capacity Building.~~Infrastructure. If federal block grant funds are reduced or increased by the Congress of the United States after the effective date of this act, then these reductions or increases shall be allocated in accordance with subsection (b) or (c) of this section, as applicable.

"SECTION 14.1.(e) The Department of Commerce shall consult with the Joint Legislative Commission on Governmental Operations prior to reallocating Community Development Block Grant Funds. Notwithstanding the provisions of this subsection, whenever the Director of the Budget finds that:

- (1) A reallocation is required because of an emergency that poses an imminent threat to public health or public safety, the Director of the Budget may authorize the reallocation without consulting the Commission. The Department of Commerce shall report to the Commission on the reallocation no later than 30 days after it was authorized and shall identify in the report the emergency, the type of action taken, and how it was related to the emergency.
- (2) The State will lose federal block grant funds or receive less federal block grant funds in the next fiscal year unless a reallocation is made, the Department of Commerce shall provide a written report to the Commission on the proposed reallocation and shall identify the reason that failure to take action will result in the loss of federal funds. If the Commission does not hear the issue within 30 days of receipt of the report, the Department may take the action without consulting the Commission.

"SECTION 14.1.(f) By ~~September 1, 2011,~~September 1, 2012, the Division of Community Assistance, Department of Commerce, shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the use of Community Development Block Grant Funds appropriated in the prior fiscal year. The report shall include the following:

- 1 (1) A discussion of each of the categories of funding and how the categories
- 2 were selected, including information on how a determination was made that
- 3 there was a statewide need in each of the categories.
- 4 (2) Information on the number of applications that were received in each
- 5 category and the total dollar amount requested in each category.
- 6 (3) A list of grantees, including the grantee's name, county, category under
- 7 which the grant was funded, the amount awarded, and a narrative description
- 8 of the project.

9 **"SECTION 14.1.(g)** For purposes of this section, eligible activities under the category of
 10 Infrastructure in subsection (a) of this section are limited to the installation of public water or
 11 sewer lines and improvements to water or sewer treatment plants that have specific problems
 12 such as being under moratoriums or special orders of consent. Notwithstanding the provisions
 13 of subsection (e) of this section, funds allocated to the Infrastructure category in subsection (a)
 14 of this section shall not be reallocated to any other category."
 15

16 **DEPARTMENT OF COMMERCE/TRAVEL EXPENSES**

17 **SECTION 13.2.** The Department of Commerce shall not provide per diem,
 18 subsistence, or travel allowances for any State employee who is not an employee of the
 19 Department. Nothing in this section shall prohibit a member of a State board or commission,
 20 State officer or employee, or member of the General Assembly who travels on official business
 21 with an employee of the Department of Commerce from receiving per diem, subsistence, and
 22 travel allowances from their respective board or commission, department, or agency at the rate
 23 set forth in G.S. 138-5, 138-6, and 120-3.1.
 24

25 **NC SMALL BUSINESS CONTRACTOR AUTHORITY/REPORTING**
 26 **REQUIREMENT**

27 **SECTION 13.3.** G.S. 143B-472.102 reads as rewritten:
 28 **"§ 143B-472.102. Authority creation; powers.**

- 29 ...
- 30 (j) Powers and Duties. – The Authority has the following powers and duties:
- 31 ...
- 32 (9) To report quarterly to the Joint Legislative Commission on Governmental
- 33 Operations on the activities of the Authority, including the amount of rates,
- 34 sureties, and bonds. The Authority shall comply with the provisions of this
- 35 subdivision only in the fiscal years in which funds are appropriated by the
- 36 State to the Authority to perform the powers and duties authorized in this
- 37 Part.

38"

39

40 **DEPARTMENT OF COMMERCE/CHANGES TO STATUTORY REPORTING**
 41 **REQUIREMENTS**

42 **SECTION 13.4.(a)** G.S. 143B-434.01 reads as rewritten:
 43 **"§ 143B-434.01. Comprehensive Strategic Economic Development Plan.**

44 ...

45 (e) Environmental Scan. – The first step in developing the Plan shall be to develop an
 46 environmental scan based on the input from economic development parties and the public and
 47 on information about the economic environment in North Carolina. To prepare the scan, the
 48 Board shall gather the following information. ~~Thereafter, the information shall be updated~~
 49 ~~periodically.~~ information and ensure that the information is updated periodically. The updated
 50 information may be provided in whatever format and through whatever means is most efficient.

51 ...

52 (f) Needs Assessment. ~~The Board, using data from the public input sessions and the~~
 53 ~~environmental scan, shall prepare an assessment of economic development strengths,~~
 54 ~~weaknesses, threats, and opportunities within the State by Region and by county. An~~
 55 ~~assessment shall also be conducted of each county to determine distressed areas existing within~~
 56 ~~the county. The assessment will include the identification of key development issues within~~
 57 ~~each geographic area and options available to address each issue.~~
 58 ...

1 (k) ~~Annual Report. Evaluation. – The Plan shall contain a section devoted to measuring~~
 2 ~~results, to be called "An Annual Report on Economic Development for the State of North~~
 3 ~~Carolina". The Annual Report shall contain a comparison of actual results with The Board shall~~
 4 ~~annually evaluate the State's economic performance based upon the statistics listed in this~~
 5 ~~subsection and upon the Board's stated goals and objectives in its Plan. and significant and~~
 6 ~~meaningful statistics to allow policymakers to adjust strategy and tactics as necessary to~~
 7 ~~achieve the formulated goals. The statistics upon which the evaluation is made should be~~
 8 ~~available to policymakers. The information may be provided in whatever format and through~~
 9 ~~whatever means is most efficient.~~

10 ~~The Annual Report shall break down data by Regions and counties including:~~

11 ...

12 (9) ~~An evaluation of the State's economic performance as indicated by the above~~
 13 ~~statistics with the goals and objectives outlined in the Plan.~~

14 (l) ~~Accountability. – The Board shall make all data, plans, and reports available to the~~
 15 ~~General Assembly and Assembly, the Joint Legislative Commission on Governmental~~
 16 ~~Operations Operations, the Joint Legislative Economic Development and Global Engagement~~
 17 ~~Oversight Committee, the Senate Appropriations Committee on Natural and Economic~~
 18 ~~Resources, and the House of Representatives Appropriations Subcommittee on Natural and~~
 19 ~~Economic Resources at appropriate times and upon request. The Board shall prepare and make~~
 20 ~~available on an annual basis public reports on each of the major sections of the Plan and the~~
 21 ~~Annual Report indicating the degree of success in attaining each development objective."~~

22 **SECTION 13.4.(b)** G.S. 143B-435.1 reads as rewritten:

23 **"§ 143B-435.1. Clawbacks.**

24 ...

25 (d) ~~Report. – The By April 1 and October 1 of each year, the Department of Commerce~~
 26 ~~shall report to the Revenue Laws Study Committee by April 1 and October 1 of each year~~
 27 ~~Committee, the Joint Legislative Commission on Governmental Operations, the Senate~~
 28 ~~Appropriations Committee on Natural and Economic Resources, the House of Representatives~~
 29 ~~Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research~~
 30 ~~Division of the General Assembly on (i) all clawbacks that have been triggered under programs~~
 31 ~~it administers the One North Carolina Fund established pursuant to G.S. 143B-437.71, the Job~~
 32 ~~Development Investment Grant Program established pursuant to G.S. 143B-437.52, Job~~
 33 ~~Maintenance and Capital Development Fund established pursuant to G.S. 143B-437.012, the~~
 34 ~~Industrial Development Fund and Utility Account established pursuant to G.S. 143B-437.01,~~
 35 ~~and the Site Infrastructure Fund established pursuant to G.S. 143B-437.02 and (ii) its progress~~
 36 ~~on obtaining repayments. The report must include the name of each business, the event that~~
 37 ~~triggered the clawback, and the amount forfeited or to be repaid."~~

38 **SECTION 13.4.(c)** G.S. 143B-437.01(c) and (c1) are repealed.

39 **SECTION 13.4.(d)** G.S. 143B-437.07 reads as rewritten:

40 **"§ 143B-437.07. Economic development grant reporting.**

41 (a) ~~Report. – The Department of Commerce must publish on or before March-October 1~~
 42 ~~of each year the information required by this subsection, itemized by business entity, for each~~
 43 ~~business or joint private venture to which the State has, in whole or in part, granted one or more~~
 44 ~~economic development incentives during the previous five calendar years. The Department~~
 45 ~~must provide the General Assembly with updated supplemental information consistent with this~~
 46 ~~subsection on a quarterly basis in the form and manner requested by the General~~
 47 ~~Assembly-fiscal year. The information in the report must include all of the following:~~

48 ...

49 (2) ~~The date of the award and the date of the award agreement.~~

50 ...

51 (b) ~~Online Posting-Posting/Written Submission. – The Department of Commerce must~~
 52 ~~post on its Internet Web site a summary of the report compiled in subsection (a) of this section.~~
 53 ~~The summary report must include the information required by subdivisions (2), (9), (11), and~~
 54 ~~(12) of subsection (a) of this section. By October 1 of each year, the Department of Commerce~~
 55 ~~must submit the written report required by subsection (a) of this section to the Joint Legislative~~
 56 ~~Commission on Governmental Operations, the Revenue Laws Study Committee, the Senate~~
 57 ~~Appropriations Committee on Natural and Economic Resources, the House of Representatives~~
 58 ~~Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research~~
 59 ~~Division of the General Assembly.~~

1 (c) Economic Development Incentive. – An economic development incentive includes
 2 any grant ~~program administered by the Department of Commerce that disburses or awards~~
 3 ~~monies to businesses. Examples of these grant programs include the~~from the following
 4 programs: Job Development Investment Grant Program, Program; the Job Maintenance and
 5 Capital Development Fund, Fund; One North Carolina Fund, Fund; and the Industrial
 6 Development Fund, including the Utility Account. The State also incents economic
 7 development through the use of tax expenditures in the form of tax credits and refunds. The
 8 Department of Revenue must report annually on these statutory economic development
 9 incentives, as required under G.S. 105-256."

10 **SECTION 13.4.(e)** G.S. 143B-437.08 is amended by adding a new subsection to
 11 read:

12 "**§ 143B-437.08. Development tier designation.**

13 ...
 14 (k) Report. – By November 30 of each year, the Secretary of Commerce shall submit a
 15 written report to the Joint Legislative Commission on Governmental Operations, the Senate
 16 Appropriations Committee on Natural and Economic Resources, the House of Representatives
 17 Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research
 18 Division of the General Assembly on the tier rankings required by subsection (c) of this
 19 section, including a map of the State whereupon the tier ranking of each county is designated."

20 **SECTION 13.4.(f)** G.S. 143B-437.55(d) is repealed.

21 **ALIGN ONE NORTH CAROLINA FUND WITH JDIG PROGRAM**

22 **SECTION 13.6.(a)** The General Assembly acknowledges the importance of
 23 ongoing economic growth and development in this State. To that end, it is the intent of the
 24 General Assembly to fund the commitments of the One North Carolina Fund, as evidenced by
 25 the General Assembly's past and recurring appropriations to the Fund and as set forth in this
 26 section, and to establish a funding structure that aligns with the funding structure that is and has
 27 been used with the Job Development Investment Grant Program. The General Assembly has
 28 continued this level of commitment while remaining fiscally responsible in addressing the other
 29 critical, high-priority needs of the State.

30 **SECTION 13.6.(b)** G.S. 143B-437.71 is amended by adding a new subsection to
 31 read:

32 "(b1) Awards. – The amounts committed in Governor's Letters issued in a single fiscal
 33 year may not exceed fourteen million dollars (\$14,000,000)."

34 **SECTION 13.6.(c)** G.S. 143B-437.72(b) is amended by adding a new subdivision
 35 to read:

36 "(b) Company Performance Agreements. – An agreement between a local government
 37 and a grantee business must contain the following provisions:

- 38 (1) A commitment to create or retain a specified number of jobs within a
 39 specified salary range at a specific location and commitments regarding the
 40 time period in which the jobs will be created or retained and the minimum
 41 time period for which the jobs must be maintained.
- 42 (2) A commitment to provide proof satisfactory to the local government and the
 43 State of new jobs created or existing jobs retained and the salary level of
 44 those jobs.
- 45 (3) A provision that funds received under the agreement may be used only for a
 46 purpose specified in G.S. 143B-437.71(b).
- 47 (4) A provision allowing the State or the local government to inspect all records
 48 of the business that may be used to confirm compliance with the agreement
 49 or with the requirements of this Part.
- 50 (5) A provision establishing the method for determining compliance with the
 51 agreement.
- 52 (6) A provision establishing a schedule for disbursement of funds under the
 53 agreement that allows disbursement of funds only in proportion to the
 54 amount of performance completed under the agreement.

55 **(6a)** A provision establishing that a business that has completed performance and
 56 become entitled to a final disbursement of funds under the agreement must
 57 timely request, in writing to the Secretary of Commerce, a disbursement of
 58

1 funds within not more than one year from the date of completed performance
 2 or forfeit the disbursement.

3 (6b) A provision establishing that a business that anticipates becoming entitled to
 4 a disbursement of funds under the agreement shall notify the Secretary of
 5 Commerce of the potential payment no later than March 1 of the fiscal year
 6 preceding the fiscal year in which the performance is anticipated to be
 7 completed.

8 (7) A provision requiring recapture of grant funds if a business subsequently
 9 fails to comply with the terms of the agreement.

10 (8) Any other provision the State or the local government finds necessary to
 11 ensure the proper use of State or local funds."

12 **SECTION 13.6.(d)** G.S. 143B-437.74 reads as rewritten:

13 **"§ 143B-437.74. ~~Reports.~~Reports; study.**

14 (a) Reports. – The Department of Commerce shall publish a report on the use of funds
 15 in the One North Carolina Fund at the end of each fiscal quarter. The report shall contain
 16 information on the commitment, disbursement, and use of funds allocated under the One North
 17 Carolina Fund. The report is due no later than one month after the end of the fiscal quarter and
 18 must be submitted to the following:

19 (1) The Joint Legislative Commission on Governmental Operations.

20 (2) The chairs of the House of Representatives and Senate Finance Committees.

21 (3) The chairs of the House of Representatives and Senate Appropriations
 22 Committees.

23 (4) The Fiscal Research Division of the General Assembly.

24 (b) Study. – The Department of Commerce shall conduct a study to determine the
 25 minimum funding level required to implement the One North Carolina Fund successfully. The
 26 Department shall report the results of this study to the House of Representatives Finance
 27 Committee, the Senate Finance Committee, the House of Representatives Appropriations
 28 Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on
 29 Natural and Economic Resources, and the Fiscal Research Division no later than April 1 of
 30 each year."

31 **SECTION 13.6.(e)** Part 2H of Article 10 of Chapter 143B of the General Statutes
 32 is amended by adding a new section to read:

33 **"§ 143B-437.75. Cash flow requirements.**

34 Notwithstanding any other provision of law, moneys allocated from the One North Carolina
 35 Fund shall be budgeted and funded on a cash flow basis. The Office of State Budget and
 36 Management shall periodically transfer funds from the One North Carolina Fund established
 37 pursuant to G.S. 143B-437.71 to the Department of Commerce in an amount sufficient to
 38 satisfy Fund allocations to be transferred pursuant to G.S. 143B-437.72 to be paid during the
 39 fiscal year."

40 **SECTION 13.6.(f)** Article 9 of Chapter 143C of the General Statutes is amended
 41 by adding a new section to read:

42 **"§ 143C-9-8. One North Carolina Fund Reserve.**

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

46 (b) It is the intent of the General Assembly to appropriate funds annually to the One
 47 North Carolina Fund Reserve established in this section in amounts sufficient to meet the
 48 anticipated cash requirements for each fiscal year of the One North Carolina Fund Program
 49 established pursuant to G.S. 143B-437.71."

50 **SECTION 13.6.(g)** G.S. 143B-437.52 reads as rewritten:

51 **"§ 143B-437.52. Job Development Investment Grant Program.**

52 ...
 53 (b) ~~Cap and Priority.~~ – ~~The maximum number of grants the Committee may award in~~
 54 ~~each calendar year is 25.~~ In selecting between applicants, a project that is located in an
 55 Eco-Industrial Park certified under G.S. 143B-437.08 has priority over a comparable project
 56 that is not located in a certified Eco-Industrial Park.

57 (c) ~~Ceiling.~~ Awards. – ~~The maximum amount of total annual liability for grants~~
 58 ~~awarded in any single calendar year under this Part, including amounts transferred to the~~
 59 ~~Utility Account pursuant to G.S. 143B-437.61, may not exceed~~ fifteen million dollars

1 (\$15,000,000). No agreement may be entered into that, when considered together with other
2 existing agreements governing grants awarded during a single calendar year, could cause the
3 State's potential total annual liability for grants awarded in a single calendar year to exceed this
4 amount.

5"

6 **SECTION 13.6.(h)** The Department of Commerce shall report to the Joint
7 Legislative Economic Development and Global Engagement Oversight Committee no later
8 than October 1, 2012, the following information for each One North Carolina Fund allocation,
9 itemized by recipient: (i) the date of the award, (ii) the date of each disbursement, (iii) the
10 amount of the funds allocated, (iv) the amount and form of the local match requirement, and (v)
11 the date the local match requirement was fulfilled. The Joint Legislative Economic
12 Development and Global Engagement Oversight Committee shall review the report and shall
13 make any recommendations to the General Assembly upon the convening of the 2013 Regular
14 Session.

15 **INDUSTRIAL COMMISSION FEES/COMPUTER SYSTEM REPLACEMENT**

16 **SECTION 13.7.** Section 14.8 of S.L. 2011-145 reads as rewritten:

17 "**SECTION 14.8.** ~~The~~ For the 2012-2013 fiscal year, the North Carolina Industrial
18 Commission ~~may~~ shall retain the additional revenue generated as a result of an increase in the
19 fee charged to parties for the filing of compromised settlements. These funds shall be used for
20 the purpose of replacing existing computer hardware and software used for the operations of
21 the Commission. These funds may also be used to prepare any assessment of hardware and
22 software needs prior to purchase and to develop and administer the needed databases and new
23 Electronic Case Management System, including the establishment of two time-limited positions
24 for application development and support and mainframe migration. The Commission may not
25 retain any fees under this section unless they are in excess of the former two-hundred-dollar
26 (\$200.00) fee charged by the Commission for filing a compromised settlement."
27

28 **EMPLOYMENT SECURITY RESERVE FUND**

29 **SECTION 13.8.(a)** Section 14.4 of S.L. 2011-145 reads as rewritten:

30 "**SECTION 14.4.(a)** Funds from the Employment Security ~~Commission~~ Reserve Fund
31 shall be available to the ~~Employment Security Commission of North Carolina~~ Department of
32 Commerce, Division of Employment Security, to use as collateral to secure federal funds and to
33 pay the administrative costs associated with the collection of the Employment Security
34 ~~Commission~~ Reserve Fund surcharge. The total administrative costs paid with funds from the
35 Reserve in the ~~2011-2012~~ 2012-2013 fiscal year shall not exceed two million five hundred
36 thousand dollars (\$2,500,000).
37

38 "**SECTION 14.4.(b)** There is appropriated from the Employment Security ~~Commission~~
39 Reserve Fund to the ~~Employment Security Commission of North Carolina~~ Department of
40 Commerce, Division of Employment Security, the sum of twenty million dollars (\$20,000,000)
41 for the ~~2011-2012~~ 2012-2013 fiscal year to be used for the following purposes:

- 42 (1) \$19,500,000 for the operation and support of local Employment Security
43 ~~Commission offices~~ offices operated by the Division of Employment
44 Security.
- 45 (2) \$200,000 to operate the system that tracks former participants in State
46 education and training programs.
- 47 (3) \$300,000 to maintain compliance with Chapter 96 of the General Statutes,
48 which directs the ~~Commission~~ Department of Commerce, Division of
49 Employment Security, to employ the Common Follow-Up Management
50 Information System to evaluate the effectiveness of the State's job training,
51 education, and placement programs.

52 "**SECTION 14.4.(c)** There is appropriated from the Employment Security ~~Commission~~
53 Reserve Fund to the ~~Employment Security Commission of North Carolina~~ Department of
54 Commerce, Division of Employment Security, an amount not to exceed one million dollars
55 (\$1,000,000) for the ~~2011-2012~~ 2012-2013 fiscal year to fund State initiatives not currently
56 funded through federal grants.

57 "**SECTION 14.4.(d)** There is appropriated from the Worker Training Trust Fund to the
58 ~~Employment Security Commission of North Carolina~~ Department of Commerce, Division of
59 Employment Security, the sum of one million dollars (\$1,000,000) for the

1 ~~2011-2012~~2012-2013 fiscal year to fund "Opportunity NC," which provides work-based
 2 training opportunities to recipients of unemployment insurance benefits. Opportunity NC must
 3 meet all of the following factors:

- 4 (1) The training, even though it includes actual operation of the facilities of the
 5 employer, is similar to what would be given in a vocational school or
 6 academic educational instruction.
- 7 (2) The training is for the benefit of the trainee.
- 8 (3) The trainees do not displace regular employees, but work under their close
 9 observation.
- 10 (4) The employer who provides the training derives no immediate advantage
 11 from the activities of the trainees, and, on occasion, the employer's
 12 operations may actually be impeded.
- 13 (5) The trainees are not necessarily entitled to a job at the conclusion of the
 14 training period.
- 15 (6) The employer and the trainees understand that the trainees are not entitled
 16 to wages for the time spent in training.

17 **"SECTION 14.4.(e)** Of the funds credited to and held in the State of North Carolina's
 18 account in the Unemployment Trust Fund by the Secretary of the Treasury of the United States
 19 pursuant to and in accordance with section 903 of the Social Security Act and pursuant to Title
 20 II of Division B of P.L. 111-5, the Assistance for Unemployed Workers and Struggling
 21 Families Act, the ~~Employment Security Commission of North Carolina~~ Department of
 22 Commerce, Division of Employment Security, may expend the sum of two hundred five
 23 million sixty-three thousand five hundred fifty-two dollars (\$205,063,552) as follows: (i) one
 24 hundred million dollars (\$100,000,000) shall be used to design and build the integrated
 25 unemployment insurance benefit and tax accounting system and (ii) the remaining funds shall
 26 be used for the operation of the unemployment insurance program.

27 **"SECTION 14.4.(f)** There is appropriated from the Employment Security Reserve Fund to
 28 the Department of Commerce, Division of Employment Security, the amount needed for the
 29 2012-2013 fiscal year to fund the interest payment due to the federal government for the debt
 30 owed to the U.S. Treasury for unemployment benefits."

31 **WORKER TRAINING TRUST FUND**

32 **SECTION 13.9.** Of the funds appropriated in this act to the Department of
 33 Commerce for the Worker Training Trust Fund, the sum of seventy-five thousand dollars
 34 (\$75,000) in nonrecurring funds for the 2012-2013 fiscal year is allocated to the North Carolina
 35 Rural Entrepreneurship through Action Learning (NC REAL) to support curriculum
 36 development, materials, and training for Small Business Centers.

37 **WINE AND GRAPE GROWERS COUNCIL TRANSFERRED TO DEPARTMENT OF** 38 **AGRICULTURE AND CONSUMER SERVICES**

39 **SECTION 13.9A.(a)** All functions, powers, duties, and obligations previously
 40 vested in the Wine and Grape Growers Council within the Division of Travel and Tourism of
 41 the Department of Commerce are transferred to and vested in the Markets Division of the
 42 Department of Agriculture and Consumer Services by a Type I transfer, as defined in
 43 G.S. 143A-6.

44 **SECTION 13.9A.(b)** Part 2J of Article 10 of Chapter 143B of the General Statutes
 45 is recodified as Article 62A of Chapter 106 of the General Statutes, and the reserved sections of
 46 redesignated Article 62 of Chapter 106 are redesignated as sections of Article 62A and read as
 47 rewritten:

48 ~~Part 2J~~Article 62A. Wine and Grape Growers Council.

49 ~~§ 143B-437.90,~~ **§ 106-755.1. North Carolina Wine and Grape Growers Council –**
 50 **Creation; powers and duties.**

51 There is created the North Carolina Wine and Grape Growers Council of the Department of
 52 ~~Commerce, Agriculture and Consumer Services.~~ The North Carolina Wine and Grape Growers
 53 Council shall have the following powers and duties:

- 54 (1) To identify and implement methods for improving North Carolina's rank as a
 55 wine-producing State;
- 56 (2) To assure orderly growth and development of North Carolina's grape and
 57 wine industry;

- (3) To achieve public awareness of the quality of North Carolina grapes and wine;
- (4) To coordinate the interaction of North Carolina's grape and wine industry with other segments of the State's economy such as tourism, retail trade, and horticulture;
- (5) To conduct methods of quality assurance of North Carolina's grape and wine industry to create a sound foundation for further growth;
- (6) To assist in the coordination of the activities of the various State agencies and other organizations contributing to the development of the grape and wine industry;
- (7) To receive and disburse funds;
- (8) To enter into contracts for the purpose of developing new or improved markets or marketing methods for wine and grape products;
- (9) To contract for research services to improve viticultural and enological practices in North Carolina;
- (10) To enter into agreements with any local, state, or national organizations or agency engaged in education for the purpose of disseminating information on wine or other viticultural projects;
- (11) To enter into contracts with commercial entities for the purpose of developing marketing, advertising, and other promotional programs designed to promote the orderly growth of the North Carolina grape and wine industry;
- (12) To acquire any licenses or permits necessary for performance of the duties of the Council; and
- (13) To develop a State Viticulture Plan that identifies problems and constraints of the viticultural industry, proposes solutions to those problems and delineates planning mechanisms for the orderly growth of the industry.
- (14) By September 1 of each year, to report to the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division on the activities of the Council, the status of the wine and grape industry in North Carolina and the United States, progress on the development and implementation of the State Viticulture Plan, and any contracts or agreements entered into by the Council for research, education, or marketing.

~~"§ 143B-437.91. § 106-755.2. North Carolina Wine and Grape Growers Council –~~
Composition; terms; reimbursement.

(a) The North Carolina Wine and Grape Growers Council shall consist of 10 members who shall be appointed by the ~~Secretary of Commerce~~ Commissioner of Agriculture as provided in this section. The members of the Council shall be divided into an advisory committee for the Vinifera Group and an advisory committee for the Muscadines Group for the purpose of performing the powers and duties prescribed in G.S. 143B-437.90 and for the purpose of promoting North Carolina wineries and tourism related to the wineries.

(b) Each advisory committee shall consist of five members, who shall be appointed by the ~~Secretary of Commerce~~ Commissioner of Agriculture to serve two-year terms, which shall be staggered. The members appointed shall be chosen from among individuals who have education or experience in the wine industry or in the field of tourism. No member of an advisory committee may serve for more than two consecutive terms. Initial terms shall commence September 1, 2011.

(c) Each advisory committee shall meet at least twice each calendar year during which time each committee shall discuss issues related to the Council's powers and duties, including ways in which to promote and advertise North Carolina wineries and ways in which to improve, use, and distribute State maps showing winery locations. The Vinifera Group shall meet at the NC Shelton Badgett Viticulture Center at Surry Community College, and the Muscadines Group shall meet at Duplin Community College. After each meeting, each advisory committee shall report to the ~~Secretary of Commerce~~ Commissioner of Agriculture with its recommendations. Notwithstanding any other provision of law, committee members

1 shall receive no salary, per diem, subsistence, travel reimbursement, or other stipend or
2 reimbursement as a result of serving on their respective committees.

3 (d) Each advisory committee shall elect from the membership of each committee a chair
4 and vice-chair. Vacancies resulting from the resignation of a member or otherwise shall be
5 filled in the same manner in which the original appointment was made, and the term shall be
6 for the balance of the unexpired term. A majority of the members of each committee shall
7 constitute a quorum for the transaction of business. The affirmative vote of a majority of the
8 members present at meetings of each committee shall be necessary for action to be taken by the
9 committee."

10 COUNCIL OF GOVERNMENT FUNDS

11 **SECTION 13.10.** Section 14.12A(a) of S.L. 2011-145 is repealed.

12 GRASSROOTS SCIENCE PROGRAM

13 **SECTION 13.11.** Section 14.11 of S.L. 2011-145 is amended by adding a new
14 subsection to read as follows:

15 "SECTION 14.11.(b1) Any reductions in funds in the 2012-2013 fiscal year shall be taken
16 on a pro rata basis from the museums listed in subsection (b) of this section."

17 REGIONAL ECONOMIC DEVELOPMENT COMMISSIONS ALLOCATIONS

18 **SECTION 13.12.** Section 14.13 of S.L. 2011-145, as amended by Section 37 of
19 S.L. 2011-391, reads as rewritten:

20 "REGIONAL ECONOMIC DEVELOPMENT COMMISSIONS ALLOCATIONS

21 **"SECTION 14.13.(a)** Funds appropriated in this act to the Department of Commerce for
22 regional economic development commissions shall be allocated to the following commissions
23 in accordance with subsection (b) of this section: Western North Carolina Regional Economic
24 Development Commission, Research Triangle Regional Partnership, Southeastern North
25 Carolina Regional Economic Development Commission, Piedmont Triad Partnership,
26 Northeastern North Carolina Regional Economic Development Commission, North Carolina's
27 Eastern Region Economic Development Partnership, and Carolinas Partnership, Inc.

28 **"SECTION 14.13.(b)** Funds appropriated pursuant to subsection (a) of this section shall be
29 allocated to each regional economic development commission as follows:

- 30 (1) First, the Department shall establish each commission's allocation by
31 determining the sum of allocations to each county that is a member of that
32 commission. Each county's allocation shall be determined by dividing the
33 county's development factor by the sum of the development factors for
34 eligible counties and multiplying the resulting percentage by the amount of
35 the appropriation. As used in this subdivision, the term "development factor"
36 means a county's development factor as calculated under G.S. 143B-437.08;
37 and
- 38 (2) Next, the Department shall subtract from funds allocated to the North
39 Carolina's Eastern Region Economic Development Partnership the sum of
40 ~~one hundred seventy four thousand eight hundred ninety dollars (\$174,890)~~
41 one hundred sixty-one thousand eight hundred sixty-one dollars (\$161,861)
42 in the ~~2011-2012~~ 2012-2013 fiscal year, which sum represents (i) the total
43 interest earnings in the prior fiscal year on the estimated balance of the seven
44 million five hundred thousand dollars (\$7,500,000) appropriated to the
45 Global TransPark Development Zone in Section 6 of Chapter 561 of the
46 1993 Session Laws and (ii) the total interest earnings in the prior fiscal year
47 on loans made from the seven million five hundred thousand dollars
48 (\$7,500,000) appropriated to the Global TransPark Development Zone in
49 Section 6 of Chapter 561 of the 1993 Session Laws; and
- 50 (3) Next, the Department shall redistribute the sum of ~~one hundred seventy four~~
51 ~~thousand eight hundred ninety dollars (\$174,890)~~ one hundred sixty-one
52 thousand eight hundred sixty-one dollars (\$161,861) in the ~~2011-2012~~
53 2012-2013 fiscal year to the seven regional economic development
54 commissions named in subsection (a) of this section. Each commission's
55 share of this redistribution shall be determined according to the development
56 factor formula set out in subdivision (1) of this subsection. This

1 redistribution shall be in addition to each commission's allocation
2 determined under subdivision (1) of this subsection.

3 **"SECTION 14.13.(c)** No more than one hundred twenty thousand dollars (\$120,000) in
4 State funds shall be used for the annual salary of any one employee of a regional economic
5 development commission.

6 **"SECTION 14.13.(d)** The General Assembly finds that successful economic development
7 requires the collaboration of the State, regions of the State, counties, and municipalities.
8 Therefore, the regional economic development commissions are encouraged to seek
9 supplemental funding from their county and municipal partners to continue and enhance their
10 efforts to attract and retain business in the State."

11 **BIOFUELS CENTER OF NORTH CAROLINA**

12 **SECTION 13.12A.** Section 14.14 of S.L. 2011-145 is amended by adding a new
13 subsection to read as follows:

14 **"SECTION 14.14.(a1)** Any reductions in funds in the 2012-2013 fiscal year shall be taken
15 on a pro rata basis from the programs listed in subsection (a) of this section."

16 **NORTH CAROLINA BIOTECHNOLOGY CENTER**

17 **SECTION 13.12B.** Section 14.15 of S.L. 2011-145 is amended by adding a new
18 subsection to read as follows:

19 **"SECTION 14.15.(a1)** Any reductions in funds in the 2012-2013 fiscal year shall be taken
20 on a pro rata basis from the programs listed in subsection (a) of this section."

21 **RURAL CENTER/RURAL JOBS FUND**

22 **SECTION 13.13.** Section 14.20(d) of S.L. 2011-145 reads as rewritten:

23 **"SECTION 14.20.(d)** Rural Jobs Infrastructure Grants. – A Rural Jobs Infrastructure
24 Grant is available to supplement other funds to be applied to the construction or installation
25 costs of an eligible project. Other funds contributed to the project may include federal funds,
26 State funds, and local funds, including contributions from private sector enterprises that may
27 benefit from the proposed improvements. A Rural Jobs Infrastructure Grant is subject to the
28 following provisions:

- 29 (1) Eligibility. – A local government unit is eligible for a Rural Jobs
30 Infrastructure Grant if it is a rural county or is located in a rural county.
- 31 (2) Maximum grant amount. – Grant funds shall be available based upon the
32 number of private sector jobs to be created as a result of the investment from
33 the Rural Jobs Infrastructure Grant Fund. An applicant for a grant may
34 request up to five thousand dollars (\$5,000) per job to be created. An
35 applicant for a Rural Jobs Infrastructure Grant shall not receive more than
36 five hundred thousand dollars (\$500,000) for a proposed infrastructure
37 project. Notwithstanding the provisions of this subdivision, the Rural Center
38 may, if it deems it reasonable and appropriate based upon the number of
39 private sector jobs created and/or the anticipated benefits to the community,
40 award grant funds to a local government that exceed five thousand dollars
41 (\$5,000) per job to be created, provided that the average amount of the total
42 grant funds from the funds appropriated in subsection (a) of this section does
43 not exceed five thousand dollars (\$5,000) per job to be created.
- 44 (3) Matching funds. – A local government unit shall match a Rural Jobs
45 Infrastructure Grant on a dollar-for-dollar basis. As part of the matching
46 funds, recipients of grant funds under the provisions of this section shall
47 contribute a cash match for the grant that is equivalent to at least five percent
48 (5%) of the grant amount. The required applicant cash-matching contribution
49 shall come from local resources and may not be derived from other State or
50 federal grant funds or from funds provided by the Rural Center."

51 **RURAL ECONOMIC DEVELOPMENT CENTER**

52 **SECTION 13.13A.** Section 14.16(a) of S.L. 2011-145 reads as rewritten:

53 **"SECTION 14.16.(a)** Of the funds appropriated in this act to the North Carolina Rural
54 Economic Development Center, Inc., (Rural Center) the sum of ~~three million five hundred~~
55 ~~eighty three thousand six hundred ninety one dollars (\$3,583,691)~~two million nine hundred

1 ~~twenty-two thousand eight hundred forty-six dollars (\$2,922,846) for each year in the~~
 2 ~~2011-2013 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 <u>\$1,062,047</u>
Research and Demonstration Grants	\$294,120	\$294,120 <u>\$239,883</u>
Institute for Rural Entrepreneurship	\$114,570	\$114,570 <u>\$93,443</u>
Community Development Grants	\$844,250	\$844,250 <u>\$688,568</u>
Microenterprise Loan Program	\$155,610	\$155,610 <u>\$126,915</u>
Water/Sewer/Business Development Matching Grants	\$701,955	\$701,955 <u>\$572,512</u>
Statewide Water/Sewer Database	\$79,523	\$79,523 <u>\$ 64,859</u>
Agricultural Advancement Consortium	\$91,490	\$91,490 <u>\$ 74,619.</u> "

15 **RURAL ECONOMIC DEVELOPMENT CENTER/INFRASTRUCTURE PROGRAM**

16 **SECTION 13.14.** Section 14.17 of S.L. 2011-145 reads as rewritten:

17 "**SECTION 14.17.(a)** Of the funds appropriated in this act to the North Carolina Rural
 18 Economic Development Center, Inc. (Rural Center), the sum of ~~sixteen million five hundred~~
 19 ~~five thousand seven hundred fifty eight dollars (\$16,505,758)~~ thirteen million four hundred
 20 sixty-two thousand forty-three dollars (\$13,462,043) for each year in the ~~2011-2013 biennium~~
 21 the 2012-2013 fiscal year shall be allocated as follows:

- 22 (1) To continue the North Carolina Infrastructure Program. The purpose of the
 23 Program is to provide grants to local governments to construct critical water
 24 and wastewater facilities and to provide other infrastructure needs, including
 25 technology needs, to sites where these facilities will generate private
 26 job-creating investment. The grants under this Program shall not be subject
 27 to the provisions of G.S. 143-355.4.
- 28 (2) To provide matching grants or loans to local governments in distressed areas
 29 that will productively reuse vacant buildings and properties, with priority
 30 given to towns or communities with populations of less than 5,000.
- 31 (3) To provide grants and technical assistance to reinvigorate the economies of
 32 towns with populations of less than 7,500, and to invest in economic
 33 innovation that stimulates business and job growth in distressed areas.
- 34 (4) Recipients of grant funds appropriated under this section shall contribute a
 35 cash match for the grant that is equivalent to at least five percent (5%) of the
 36 grant amount. The cash match shall come from local resources and may not
 37 be derived from other State or federal grant funds or from funds provided by
 38 the Rural Center.

39 ...
 40 "**SECTION 14.17.(c)** ~~During each year of the 2011-2013 biennium,~~ For the 2012-2013
 41 fiscal year, the Rural Center may use up to ~~three hundred twenty nine thousand one hundred~~
 42 ~~seventy eight dollars (\$329,178)~~ three percent (3%) of the funds appropriated in this act section
 43 to cover its expenses in administering the North Carolina Economic Infrastructure Program.

44
 45 **OPPORTUNITIES INDUSTRIALIZATION CENTERS FUNDS**

46 **SECTION 13.14A.** Section 14.18(a) of S.L. 2011-145 reads as rewritten:

47 "**SECTION 14.18.(a)** Of the funds appropriated in this act to the North Carolina Rural
 48 Economic Development Center, Inc. (Rural Center), the sum of ~~two hundred eighty seven~~
 49 ~~thousand two hundred eighty dollars (\$287,280)~~ two hundred thirty-four thousand three
 50 hundred five dollars (\$234,305) for each year in the ~~2011-2013 biennium~~ the 2012-2013 fiscal
 51 year shall be equally distributed among the certified Opportunities Industrialization Centers (OI
 52 Centers)."

53 **REGIONAL ECONOMIC DEVELOPMENT COMMISSIONS/STUDY**

54 **SECTION 13.15.** The Legislative Research Commission is authorized to study the
 55 funding and alignment of the membership of each of the regional economic development
 56 commissions listed in Section 14.13 of S.L. 2011-145, as amended by Section 37 of S.L.
 57 2011-391, in order to determine (i) whether the needs of each member organization are being
 58
 59

1 adequately served by the commission of which it is a member and (ii) whether there are areas
2 in which improvement in service can be made in the most cost-effective manner.

3 4 **PART XIV. DEPARTMENT OF PUBLIC SAFETY**

5 6 **DIVISION OF ADULT CORRECTION/RELEASE DATES**

7 **SECTION 14.1.** Notwithstanding any other provision of law, the Division of Adult
8 Correction may establish more than two release dates per month for inmates leaving prison.

9 10 **INMATE MEDICAL COSTS**

11 **SECTION 14.2.(a)** Section 19.20 of S.L. 2009-451, as amended by Section 15A of
12 S.L. 2009-575 and Section 19.6(h) of S.L. 2010-31, is repealed.

13 **SECTION 14.2.(b)** Section 18.10(d) of S.L. 2011-145 reads as rewritten:

14 "**SECTION 18.10.(d)** ~~The Department of Division of Adult Correction shall report to the~~
15 ~~Joint Legislative Commission on Governmental Operations Oversight Committee on Justice and~~
16 ~~Public Safety and the Chairs of the House and Senate Appropriations Subcommittees on Justice~~
17 ~~and Public Safety no later than November 1, 2011~~November 1, 2012, and quarterly thereafter
18 on:

- 19 (1) The volume of services provided by community medical providers that can
20 be scheduled in advance and, of that volume, the percentage of those
21 services that are provided by contracted ~~providers; and~~ providers.
- 22 (2) The volume of services provided by community medical providers that
23 cannot be scheduled in advance and, of that volume, the percentage of those
24 services that are provided by contracted providers.
- 25 (3) The volume of services provided by community medical providers that are
26 emergent cases requiring hospital admissions and emergent cases not
27 requiring hospital admissions.
- 28 (4) The volume of inpatient medical services provided to Medicaid-eligible
29 inmates, the cost of treatment, and the estimated savings of paying the
30 nonfederal portion of Medicaid for the services.
- 31 (5) The status of the Division's efforts to contract with hospitals to provide
32 secure wards in each of the State's five prison regions."

33 34 **JUSTICE REINVESTMENT ACT/LIMITED AUTHORITY TO RECLASSIFY** 35 **VACANT POSITIONS**

36 **SECTION 14.2A.(a)** Notwithstanding any other provision of law, subject to the
37 approval of the Director of the Budget, the Secretary of Public Safety may reclassify existing
38 vacant positions within the Department to create new probation parole officer, parole case
39 analyst, and judicial service coordinator positions in order to meet the increasing caseloads
40 resulting from the implementation of the Justice Reinvestment Act of 2011, S.L. 2011-192, as
41 amended.

42 **SECTION 14.2A.(b)** The Department of Public Safety shall report to the Chairs of
43 the Senate and House Appropriations Subcommittees on Justice and Public Safety by March 1,
44 2013, on the following:

- 45 (1) The position number, position type, salary, and position location of each new
46 position created under the authority of this section.
- 47 (2) The position number, position type, fund code, and position location of each
48 vacant position used to create new positions under the authority of this
49 section.

50 51 **TECHNICAL REVOCATION CENTER STUDY**

52 **SECTION 14.3.** The Division of Adult Correction of the Department of Public
53 Safety shall study the feasibility of creating a technical violation center to house probationers
54 ordered to serve a period of 90 days in confinement due to a technical violation of the condition
55 of their probation. The study would determine the feasibility and cost-effectiveness of using
56 such a center operated by the Community Corrections Section for confinements resulting from
57 technical corrections rather than placing the probationers in State prison facilities. The
58 Department shall report its findings and recommendations to the Office of State Budget and

1 Management and the House and Senate Appropriations Subcommittees on Justice and Public
2 Safety no later than January 1, 2013.

3
4 **DEPARTMENT OF PUBLIC SAFETY MANAGEMENT FLEXIBILITY**
5 **REDUCTIONS**

6 **SECTION 14.3A.** In implementing the management flexibility reductions required
7 by this act for the 2012-2013 fiscal year, the Department of Public Safety shall not do any of
8 the following:

- 9 (1) Close Bladen Correctional Center.
- 10 (2) Reduce community program funding in either the Division of Adult
11 Correction or the Division of Juvenile Justice.
- 12 (3) Eliminate any district level State Highway Patrol trooper positions.

13
14 **STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS**

15 **SECTION 14.4.** Funds appropriated in this act to the Department of Public Safety
16 for the Division of Juvenile Justice for the 2012-2013 fiscal year may be used as matching
17 funds for the Juvenile Accountability Incentive Block Grants. If North Carolina receives
18 Juvenile Accountability Incentive Block Grants or a notice of funds to be awarded, the Office
19 of State Budget and Management and the Governor's Crime Commission shall consult with the
20 Division of Juvenile Justice regarding the criteria for awarding federal funds. The Office of
21 State Budget and Management, the Governor's Crime Commission, and the Division of
22 Juvenile Justice shall report to the Chairs of the House of Representatives and Senate
23 Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative
24 Commission on Governmental Operations prior to allocation of the federal funds. The report
25 shall identify the amount of funds to be received for the 2012-2013 fiscal year and the
26 allocation of funds by program and purpose. Any Juvenile Accountability Incentive Block
27 Grant awarded to North Carolina is subject to the provisions of G.S. 143C-7-1 and shall not
28 obligate the State financially in future fiscal years.

29
30 **REPEAL REQUIREMENT REGARDING THE STAFFING TREATMENT MODEL**
31 **AT YOUTH DEVELOPMENT CENTERS**

32 **SECTION 14.5.** Section 17.7 of S.L. 2011-145 is repealed.

33
34 **MULTIPURPOSE GROUP HOME FUNDS**

35 **SECTION 14.6.** Of the funds appropriated in this act to the Department of Public
36 Safety for the Division of Juvenile Justice, the sum of five hundred fifty thousand dollars
37 (\$550,000) shall be used to continue operating a multipurpose group home in Craven County.

38
39 **JUVENILE CRIME PREVENTION COUNCIL FUNDS**

40 **SECTION 14.7.** Section 17.4(b) of S.L. 2011-145 reads as rewritten:

41 "**SECTION 17.4.(b)** Of the funds appropriated by this act for the ~~2011-2012~~2012-2013
42 fiscal year to the ~~Department of Juvenile Justice and Delinquency Prevention~~ Department of
43 Public Safety for Juvenile Crime Prevention Council grants, the sum of one hundred
44 twenty-one thousand six hundred dollars (\$121,600) shall be transferred to Project Challenge
45 North Carolina, Inc., to be used for the continued support of Project Challenge programs
46 throughout the State."

47
48 **STRATEGIC PLAN FOR FACILITY CLOSURE, CONSTRUCTION, AND REPAIR**

49 **SECTION 14.8.** The Department of Public Safety shall study the population
50 dynamics of detention and secure confinement at the Youth Development Centers operated by
51 the Department and shall submit a strategic plan for facility closure, construction, and repair
52 and renovation to the Chairs of the House of Representatives and Senate Appropriations
53 Subcommittees on Justice and Public Safety by February 1, 2013. The strategic plan required
54 by this section shall include cost estimates for any proposed projects.

55
56 **STUDY USES FOR EDGEcombe YOUTH DEVELOPMENT CENTER**

57 **SECTION 14.9.** The Department of Public Safety, in consultation and cooperation
58 with the Department of Health and Human Services, shall study potential uses for the facilities
59 at the Edgecombe Youth Development Center and recommend all possible means of continuing

1 those facilities in productive use after the closure of that Center. The Department shall report its
2 findings and recommendations to the Chairs of the Joint Legislative Oversight Committee on
3 Justice and Public Safety and the Chairs of the Joint Legislative Oversight Committee on
4 Health and Human Services by December 1, 2012.

6 PART XV. DEPARTMENT OF JUSTICE

8 ITEMIZED BILLING FOR LEGAL SERVICES PROVIDED TO STATE AGENCIES

9 **SECTION 15.1.** Article 1 of Chapter 114 of the General Statutes is amended by
10 adding a new section to read:

11 "§ 114-8.5. Itemized billing for legal services provided to State agencies.

12 Whenever the Department of Justice charges a State agency, board, or commission for legal
13 services rendered by the Department, the Department shall do so by providing the agency,
14 board, or commission with an invoice that includes at least all of the following information for
15 all charges:

- 16 (1) The case or matter for which the agency, board, or commission is being
17 charged.
- 18 (2) The name of each attorney who worked on each case or matter and the
19 number of hours worked by each attorney.
- 20 (3) The hourly rate being charged by each attorney."

22 BIENNIAL REPORTING ON ATTORNEY ACTIVITY

23 **SECTION 15.2.** Beginning on February 1, 2013, and every six months thereafter,
24 the Attorney General shall report on the work of Department of Justice attorneys during the
25 previous two quarters. The reports required by this section shall be filed with the Chairs of the
26 House and Senate Appropriations Subcommittees on Justice and Public Safety and with the
27 Fiscal Research Division of the General Assembly as follows:

- 28 (1) Agency-specific work. – A report on the work of Department of Justice
29 attorneys for State agencies. This report shall include at least all of the
30 following information:
 - 31 a. The amount of time spent working for each State department and
32 agency.
 - 33 b. The amount of time spent on each case for each State department and
34 agency.
 - 35 c. The amount billed to each State agency for the legal services
36 provided.
- 37 (2) Other work. – A report on the work of Department of Justice attorneys that
38 is not on behalf of a particular State agency. The report required by this
39 subdivision shall include all of the information required by subdivision (1)
40 of this section. The report shall include at least all of the following
41 information:
 - 42 a. The amount of time spent by each unit of the Department of Justice.
 - 43 b. The amount of time spent on each particular matter for each unit of
44 the Department of Justice.

46 CONSOLIDATE OFFICE OF MANAGED CARE PATIENT ASSISTANCE 47 PROGRAM BY TRANSFERRING THE DEPARTMENT OF JUSTICE, HEALTH 48 INSURANCE CONSUMER PROTECTION UNIT, TO THE DEPARTMENT OF 49 INSURANCE

50 **SECTION 15.3.(a)** The Department of Justice, Health Insurance Consumer
51 Protection Unit, and any portion of the Managed Care Patient Assistance Program managed by
52 the Department of Justice is transferred to the Department of Insurance. This transfer shall have
53 all of the elements of a Type I transfer, as described in G.S. 143A-6.

54 **SECTION 15.3.(b)** G.S. 143-730(a) reads as rewritten:

55 "(a) The Office of Managed Care Patient Assistance Program is established in ~~an~~
56 ~~existing State agency or department designated by the Governor. The Director of the Office of~~
57 ~~Managed Care Patient Assistance Program shall be appointed by the Governor. the Department~~
58 of Insurance."

ESTABLISH HUMAN TRAFFICKING COMMISSION

SECTION 15.3A.(a) Establishment. – There is established in the Department of Justice the North Carolina Human Trafficking Commission.

SECTION 15.3A.(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.
 - c. A city or town police department.
- (2) The Speaker of the House of Representatives shall appoint one representative from each of the following:
 - a. The public at large.
 - b. A county sheriff's department.
 - c. A city or town police department.
- (3) The Governor shall appoint one representative from the public at large.
- (4) The following persons, or their designees, shall serve as ex officio members of the Commission:
 - a. The Secretary of Public Safety.
 - b. The Secretary of Administration.
 - c. The Secretary of Labor.
 - d. The Secretary of Health and Human Services.
 - e. The Attorney General.

SECTION 15.3A.(c) Powers. – The Commission shall have the following powers:

- (1) To apply for and receive, on behalf of the State, funding from federal, public or private initiatives, grant programs, or donors that will assist in examining and countering the problem of human trafficking in North Carolina.
- (2) To commission, fund, and facilitate quantitative and qualitative research to explore the specific ways human trafficking is occurring in North Carolina and the links to international and domestic human trafficking, and to assist in creating measurement, assessment, and accountability mechanisms.
- (3) To contribute to efforts to inform and educate law enforcement personnel, social services providers, and the general public about human trafficking so that human traffickers can be prosecuted and victim-survivors can receive appropriate services.
- (4) To suggest new policies, procedures, or legislation to further the work of eradicating human trafficking and to provide assistance and review with new policies, procedures, and legislation.
- (5) To assist in developing regional response teams or other coordinated efforts to counter human trafficking at the level of law enforcement, legal services, social services, and nonprofits.
- (6) To identify gaps in law enforcement or service provision and recommend solutions to those gaps.
- (7) To consider whether human trafficking should be added to the list of criminal convictions that require registration under the sex offender and public protection registration program.

SECTION 15.3A.(d) Terms. – Members shall serve until the Commission terminates.

SECTION 15.3A.(e) Meetings. – The chair shall convene the Commission. Meetings shall be held as often as necessary, but not less than four times a year.

SECTION 15.3A.(f) Quorum. – A majority of the members of the Commission shall constitute a quorum for the transaction of business. The affirmative vote of a majority of the members present at meetings of the Commission shall be necessary for action to be taken by the Commission.

SECTION 15.3A.(g) Vacancies. – A vacancy on the Commission or as chair of the Commission resulting from the resignation of a member or otherwise shall be filled in the same manner in which the original appointment was made, and the term shall be for the balance of the unexpired term.

1 **SECTION 15.3A.(h)** Removal. – The Commission may remove a member for
2 misfeasance, malfeasance, nonfeasance, or neglect of duty.

3 **SECTION 15.3A.(i)** Compensation. – Commission members shall receive no per
4 diem for their services but shall be entitled to receive travel allowances in accordance with the
5 provisions of G.S. 138-5 or G.S. 138-6, as appropriate.

6 **SECTION 15.3A.(j)** Staffing. – The Department of Justice shall be responsible for
7 staffing the Commission.

8 **SECTION 15.3A.(k)** Termination. – The Commission established under this
9 section shall terminate on December 31, 2014.

10 **REQUIRE PLANNING OF WESTERN REGIONAL LABORATORY**

11 **SECTION 15.4.** From funds available, the Department of Justice shall plan a
12 Western Regional Laboratory to be located on the Edneyville Campus of the Training
13 Academy. The Department shall report on the plan to the Chairs of the House of
14 Representatives and Senate Appropriations Committees, to the Chairs of the House of
15 Representatives and Senate Appropriations Subcommittees on Justice and Public Safety, and to
16 the Fiscal Research Division no later than February 1, 2013. The report shall include (i) the
17 plans developed pursuant to this section; (ii) the estimated cost of completing the laboratory;
18 (iii) the estimated cost of operating the laboratory during its first five years of operation; (iv) an
19 estimated time line for completion of the laboratory; and (v) any other relevant information.

20 **NO ELIMINATION OF CRIME LAB POSITIONS**

21 **SECTION 15.5.** In implementing the management flexibility reductions required
22 by this act for the 2012-2013 fiscal year, the Department of Justice shall not eliminate positions
23 at laboratory facilities.

24 **PART XVI. JUDICIAL DEPARTMENT**

25 **STUDY MANAGEMENT OF MAGISTRATE SCHEDULES**

26 **SECTION 16.1.** The Administrative Office of the Courts shall study the
27 management of magistrate schedules throughout the General Court of Justice and make
28 recommendations to (i) provide for more efficient use of the magistrates established for each
29 county; and (ii) ensure that each county has sufficient coverage to adequately respond to law
30 enforcement and the public. The Administrative Office of the Courts shall report its finding and
31 recommendations to the Chairs of the House and Senate Appropriations Subcommittees on
32 Justice and Public Safety by March 1, 2013.

33 **FAMILY COURT PROGRAMS**

34 **SECTION 16.2.** The Administrative Office of the Courts shall provide direction
35 and oversight to the existing family court programs in order to ensure that each district with a
36 family court program is utilizing best practices and is working effectively and efficiently in the
37 disposition of domestic and juvenile cases. The Administrative Office of the Courts shall
38 report on its efforts in this regard and the results of those efforts to the Chairs of the House and
39 Senate Appropriations Subcommittees on Justice and Public Safety by March 1, 2013.

40 **FOREIGN LANGUAGE INTERPRETERS FOR THE COURTS**

41 **SECTION 16.3.(a)** G.S. 7A-314(f) is repealed.

42 **SECTION 16.3.(b)** G.S. 7A-343 reads as rewritten:

43 **"§ 7A-343. Duties of Director.**

44 The Director is the Administrative Officer of the Courts, and the Director's duties include
45 all of the following:

46 ...

47 (9c) Prescribe policies and procedures for the appointment and payment of
48 foreign language ~~interpreters in those cases specified in G.S. 7A-314(f).~~
49 interpreters. These policies and procedures shall be applied uniformly
50 throughout the General Court of Justice. After consultation with the Joint
51 Legislative Commission on Governmental Operations, the Director may also
52 convert contractual foreign language interpreter positions to permanent State
53 positions when the Director determines that it is more cost-effective to do so.

1 "
 2 **SECTION 16.3.(c)** The Judicial Department may use funds appropriated and funds
 3 available to the Department to provide assistance to persons with limited proficiency in English
 4 to assist the court in the fair, efficient, and accurate transaction of business and provide more
 5 meaningful access to the courts.
 6

7 **EXTEND SUNSET ON PILOT PROJECT FOR ELECTRONIC FILING IN**
 8 **DOMESTIC VIOLENCE AND CIVIL NO-CONTACT CASES IN ALAMANCE**
 9 **COUNTY**

10 **SECTION 16.4.(a)** Section 15.13(b) of S.L. 2010-31 reads as rewritten:

11 "**SECTION 15.13.(b)** This section expires ~~June 30, 2012.~~ June 30, 2014."

12 **SECTION 16.4.(b)** This section becomes effective June 30, 2012.
 13

14 **EXPAND USES FOR COURT INFORMATION TECHNOLOGY FUND**

15 **SECTION 16.5.(a)** G.S. 7A-343.2 reads as rewritten:

16 "**§ 7A-343.2. Court Information Technology and Facilities Fund.**

17 (a) Fund. – The Court Information Technology and Facilities Fund is established within
 18 the Judicial Department as a special revenue fund. Interest and other investment income earned
 19 by the Fund accrues to it. The Fund consists of the following revenues:

20 (1) All monies collected by the Director pursuant to G.S. 7A-109(d) and
 21 G.S. 7A-49.5.

22 (2) State judicial facilities fees credited to the Fund under G.S. 7A-304 through
 23 G.S. 7A-307.

24 (b) Use. – Money in the Fund derived from State judicial facilities fees must be used to
 25 upgrade, maintain, and operate State judicial facilities and the judicial and county courthouse
 26 phone systems. All other monies in the Fund must be used to supplement funds otherwise
 27 available to the Judicial Department for court information technology and office automation
 28 needs.

29 (c) Report. – The Director must report by August 1 and February 1 of each year to the
 30 Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House
 31 Appropriations Committees, and the Chairs of the Senate and House Appropriations
 32 Subcommittees on Justice and Public Safety. The report must include the following:

33 (1) Amounts credited in the preceding six months to the Fund.

34 (2) Amounts expended in the preceding six months from the Fund and the
 35 purposes of the expenditures.

36 (3) Proposed expenditures of the monies in the Fund."
 37

38 **SECTION 16.5.(b)** G.S. 7A-304 reads as rewritten:

39 "**§ 7A-304. Costs in criminal actions.**

40 (a) In every criminal case in the superior or district court, wherein the defendant is
 41 convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the
 42 prosecuting witness, the following costs shall be assessed and collected. No costs may be
 43 assessed when a case is dismissed. Costs under this section may not be waived unless the judge
 44 makes a written finding of just cause to grant such a waiver.

45 ...

46 (2a) For the upgrade, maintenance, and operation of State judicial facilities and
 47 the judicial and county courthouse phone systems, the sum of four dollars
 48 (\$4.00), to be credited to the Court Information Technology and Facilities
 49 Fund.

50 "

51 **SECTION 16.5.(c)** G.S. 7A-305 reads as rewritten:

52 "**§ 7A-305. Costs in civil actions.**

53 (a) In every civil action in the superior or district court, except for actions brought
 54 under Chapter 50B of the General Statutes, shall be assessed:

55 ...

56 (1a) For the upgrade, maintenance, and operation of State judicial facilities and
 57 the judicial and county courthouse phone systems, the sum of four dollars
 58 (\$4.00), to be credited to the Court Information Technology and Facilities
 59 Fund.

...

1 (a5) In every civil action in the superior or district court wherein a party files a pleading
 2 containing one or more counterclaims or cross-claims, except for counterclaim and cross-claim
 3 actions brought under Chapter 50B of the General Statutes for which costs are assessed
 4 pursuant to subsection (a1) of this section, the following shall be assessed:

5 ...
 6 (2) For the upgrade, maintenance, and operation of State judicial facilities and
 7 the judicial and county courthouse phone systems, the sum of four dollars
 8 (\$4.00), to be credited to the Court Information Technology and Facilities
 9 Fund.

10"

11 **SECTION 16.5.(d)** G.S. 7A-306 reads as rewritten:

12 **"§ 7A-306. Costs in special proceedings.**

13 (a) In every special proceeding in the superior court, the following costs shall be
 14 assessed:

15 ...
 16 (1a) For the upgrade, maintenance, and operation of State judicial facilities and
 17 the judicial and county courthouse phone systems, the sum of four dollars
 18 (\$4.00), to be credited to the Court Information Technology and Facilities
 19 Fund.

20"

21 **SECTION 16.5.(e)** G.S. 7A-307 reads as rewritten:

22 **"§ 7A-307. Costs in administration of estates.**

23 (a) In the administration of the estates of decedents, minors, incompetents, of missing
 24 persons, and of trusts under wills and under powers of attorney, in trust proceedings under
 25 G.S. 36C-2-203, in estate proceedings under G.S. 28A-2-4, and in collections of personal
 26 property by affidavit, the following costs shall be assessed:

27 ...
 28 (1a) For the upgrade, maintenance, and operation of State judicial facilities and
 29 the judicial and county courthouse phone systems, the sum of four dollars
 30 (\$4.00), to be credited to the Court Information Technology and Facilities
 31 Fund.

32"

33 **SECTION 16.5.(f)** G.S. 7A-49.5(d) reads as rewritten:

34 "(d) Any funds received by the Administrative Office of the Courts from the vendor
 35 selected pursuant to subsection (c) of this section, other than applicable statutory court costs, as
 36 a result of electronic filing, shall be deposited in the Court Information Technology and
 37 Facilities Fund in accordance with G.S. 7A-343.2."

38 **SECTION 16.5.(g)** G.S. 7A-109(d) reads as rewritten:

39 "(d) In order to facilitate public access to court records, except where public access is
 40 prohibited by law, the Director may enter into one or more nonexclusive contracts under
 41 reasonable cost recovery terms with third parties to provide remote electronic access to the
 42 records by the public. Costs recovered pursuant to this subsection shall be remitted to the State
 43 Treasurer to be held in the Court Information Technology and Facilities Fund established in
 44 G.S. 7A-343.2."

45 **SECTION 16.5.(h)** G.S. 7A-455.1(f) reads as rewritten:

46 "(f) Of each appointment fee collected under this section, the sum of fifty-five dollars
 47 (\$55.00) shall be credited to the Indigent Persons' Attorney Fee Fund and the sum of five
 48 dollars (\$5.00) shall be credited to the Court Information Technology and Facilities Fund under
 49 G.S. 7A-343.2. These fees shall not revert."

50 **SECTION 16.5.(i)** This section is effective when it becomes law, and expires June
 51 30, 2013.

52
 53 **WAIVER OF MEDIATION FEES TO REQUIRE FINDING OF JUST CAUSE**

54 **SECTION 16.6.(a)** G.S. 7A-38.7 reads as rewritten:

55 **"§ 7A-38.7. Dispute resolution fee for cases resolved in mediation.**

56 (a) In each criminal case filed in the General Court of Justice that is resolved through
 57 referral to a community mediation center, a dispute resolution fee shall be assessed in the sum
 58 of sixty dollars (\$60.00) per mediation to support the services provided by the community
 59 mediation centers and the Mediation Network of North Carolina. Fees assessed under this

1 section shall be paid to the clerk of superior court in the county where the case was filed and
2 remitted by the clerk to the Mediation Network of North Carolina. The Mediation Network
3 may retain up to three dollars (\$3.00) of this amount as an allowance for its administrative
4 expenses. The Mediation Network must remit the remainder of this amount to the community
5 mediation center that mediated the case. The court may waive or reduce a fee assessed under
6 this section only upon entry of a written order, supported by findings of fact and conclusions of
7 law, determining there is just cause to grant the waiver or reduction.

8 (b) Before providing the district attorney with a dismissal form, the community
9 mediation center shall require proof that the defendant has paid the dispute resolution fee as
10 required by subsection (a) of this section and shall attach the receipt to the dismissal form."

11 **SECTION 16.6.(b)** G.S. 7A-304(a) reads as rewritten:

12 "(a) In every criminal case in the superior or district court, wherein the defendant is
13 convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the
14 prosecuting witness, the following costs shall be assessed and collected. No costs may be
15 assessed when a case is dismissed. ~~Costs under this section may not be waived unless the judge~~
16 ~~makes a written finding of just cause to grant such a waiver. Only upon entry of a written order,~~
17 ~~supported by findings of fact and conclusions of law, determining that there is just cause, the~~
18 ~~court may (i) waive costs assessed under this section or (ii) waive or reduce costs assessed~~
19 ~~under subdivisions (7) or (8) of this section.~~

20 ...
21 (7) For the services of the North Carolina State Crime Laboratory facilities, the
22 district or superior court judge shall, upon conviction, order payment of the
23 sum of six hundred dollars (\$600.00) to be remitted to the Department of
24 Justice for support of the State Bureau of Investigation. This cost shall be
25 assessed only in cases in which, as part of the investigation leading to the
26 defendant's conviction, the laboratories have performed DNA analysis of the
27 crime, tests of bodily fluids of the defendant for the presence of alcohol or
28 controlled substances, or analysis of any controlled substance possessed by
29 the defendant or the defendant's agent. ~~The court may waive or reduce the~~
30 ~~amount of the payment required by this subdivision upon a finding of just~~
31 ~~cause to grant such a waiver or reduction.~~

32 (8) For the services of any crime laboratory facility operated by a local
33 government or group of local governments, the district or superior court
34 judge shall, upon conviction, order payment of the sum of six hundred
35 dollars (\$600.00) to be remitted to the general fund of the local
36 governmental unit that operates the laboratory to be used for law
37 enforcement purposes. The cost shall be assessed only in cases in which, as
38 part of the investigation leading to the defendant's conviction, the laboratory
39 has performed DNA analysis of the crime, test of bodily fluids of the
40 defendant for the presence of alcohol or controlled substances, or analysis of
41 any controlled substance possessed by the defendant or the defendant's
42 agent. The costs shall be assessed only if the court finds that the work
43 performed at the local government's laboratory is the equivalent of the same
44 kind of work performed by the State Bureau of Investigation under
45 subdivision (7) of this subsection. ~~The court may waive or reduce the~~
46 ~~amount of the payment required by this subdivision upon a finding of just~~
47 ~~cause to grant such a waiver or reduction.~~

48 (9) For the support and services of the State Bureau of Investigation DNA
49 Database and DNA Databank, the sum of two dollars (\$2.00). This amount
50 is annually appropriated to the Department of Justice for this purpose.
51 Notwithstanding the provisions of subsection (e) of this section, this cost
52 does not apply to infractions.

53

54 **SECTION 16.6.(c)** This section becomes effective July 1, 2012, and applies to fees
55 waived on or after that date.

57 COLLECTION OF WORTHLESS CHECK FUNDS

58 **SECTION 16.7.** Section 15.4 of S.L. 2011-145 reads as rewritten:

1 "SECTION 15.4. Notwithstanding the provisions of G.S. 7A-308(c), the Judicial
2 Department may use any balance remaining in the Collection of Worthless Checks Fund on
3 ~~June 30, 2011, June 30, 2012,~~ for the purchase or repair of office or information technology
4 equipment during the ~~2011-2012 fiscal year.~~ 2012-2013 fiscal year. Prior to using any funds
5 under this section, the Judicial Department shall report to the Joint Legislative Commission on
6 Governmental ~~Operations and Operations,~~ the Chairs of the House of Representatives and
7 Senate Appropriations Subcommittees on Justice and Public ~~Safety-Safety,~~ and the Office of
8 State Budget and Management on the equipment to be purchased or repaired and the reasons
9 for the purchases."

10 OFFICE OF INDIGENT DEFENSE SERVICES EXPANSION FUNDS

11 SECTION 16.8. Section 15.16(a) of S.L. 2011-145 reads as rewritten:

12 "SECTION 15.16.(a) The Judicial Department, Office of Indigent Defense Services, may
13 use up to the sum of two million one hundred fifty thousand dollars (\$2,150,000) in
14 appropriated funds during the 2011-2012 fiscal year for the expansion of existing offices
15 currently providing legal services to the indigent population under the oversight of the Office of
16 Indigent Defense Services, for the creation of new public defender offices within existing
17 public defender programs, or for the establishment of regional public defender programs.
18 Notwithstanding the defender districts established by G.S. 7A-498.7, the Office of Indigent
19 Defense Services may use a portion of these funds to create positions within existing public
20 defender programs to handle cases in adjacent counties or districts. These funds may be used to
21 create up to 50 new attorney positions and 25 new support staff positions during the ~~2011-2012~~
22 fiscal year 2011-2013 biennium and for the salaries, benefits, equipment, and related expenses
23 for these positions in both years of the biennium. Positions creation will be staggered across the
24 two years of the biennium. Prior to using funds for this purpose, the Office of Indigent Defense
25 Services shall report to the Chairs of the House of Representatives and the Senate
26 Appropriations Subcommittees on Justice and Public Safety on the proposed expansion."
27

28 OFFICE OF INDIGENT DEFENSE SERVICES/STATE MATCH FOR GRANTS

29 SECTION 16.9. Notwithstanding G.S. 143C-6-9, the Office of Indigent Defense
30 Services may use the sum of up to fifty thousand dollars (\$50,000) from funds available to
31 provide the State matching funds needed to receive grant funds. Prior to using funds for this
32 purpose, the Office shall report to the Chairs of the House of Representatives and Senate
33 Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative
34 Commission on Governmental Operations on the grants to be matched using these funds.
35

36 PART XVII. OFFICE OF THE STATE AUDITOR

37 EXEMPT OCCUPATIONAL LICENSING BOARDS FROM PAYING FOR AUDITS 38 UNDER CERTAIN CIRCUMSTANCES

39 SECTION 17.1. G.S. 93B-4 reads as rewritten:

40 "§ 93B-4. Audit of Occupational Licensing Boards; payment of costs.

41 (a) The State Auditor shall audit occupational licensing boards from time to time to
42 ensure their proper operation. The books, records, and operations of each occupational
43 licensing board shall be subject to the oversight of the State Auditor pursuant to Article 5A of
44 Chapter 147 of the General Statutes. In accordance with G.S. 147-64.7(b), the State Auditor
45 may contract with independent professionals to meet the requirements of this section.
46

47 ~~The cost of all audits shall be paid from funds of the occupational licensing board audited.~~

48 (b) Each occupational licensing board with a budget of at least fifty thousand dollars
49 (\$50,000) shall conduct an annual financial audit of its operations and provide a copy to the
50 State Auditor."
51

52 SPECIAL RESPONSIBILITY CONSTITUENT INSTITUTIONS – AUDIT

53 SECTION 17.2. G.S. 116-30.8 reads as rewritten:

54 "§ 116-30.8. Special responsibility constituent institutions: annual audit by State Auditor 55 or certified public accountant.

56 Each special responsibility constituent institution shall be audited annually. The Chancellor
57 of the special responsibility constituent institution may use State funds to contract with the
58 State Auditor or with a certified public accountant to perform the audit. The contract for audit
59

1 services may be for up to three years in duration. The audit shall be provided to the Chancellor
2 and Board of Trustees of the special responsibility institution, the Board of Governors of The
3 University of North Carolina, and the State Auditor. The audit shall also be included in the
4 State's Comprehensive Annual Financial Report (CAFR).

5 The Board of Governors of The University of North Carolina shall ensure that all special
6 responsibility constituent institutions are audited in accordance with this section."
7

8 **AUDITOR PUBLISH COST OF AUDITS**

9 **SECTION 17.3.** Article 5A of Chapter 147 of the General Statutes is amended by
10 adding a new section to read:

11 **"§ 147-64.6C. Cost of audit report published.**

12 Each audit report shall itemize the number of staff hours used in conducting the audit and in
13 preparation of the audit report and the total cost of conducting the audit and preparing the audit
14 report."
15

16 **AGENCY PUBLISH COST OF AUDITS**

17 **SECTION 17.4.** Article 5A of Chapter 147 of the General Statutes is amended by
18 adding a new section to read:

19 **"§ 147-64.6D. Cost of CPA audit report published.**

20 Each audit report prepared for a State agency by a Certified Public Accountant shall itemize
21 the number of hours used in conducting the audit and in preparation of the audit report and the
22 total cost of conducting the audit and preparing the audit report."
23

24 **PART XVIII. DEPARTMENT OF CULTURAL RESOURCES**

25 **ROANOKE ISLAND COMMISSION REPORTING REQUIREMENT**

26 **SECTION 18.1.** G.S. 143B-131.4 reads as rewritten:

27 **"§ 143B-131.4. Commission reports.**

28 Before July 1, 1995, the Commission shall submit to the General Assembly a
29 comprehensive report incorporating specific recommendations of the Commission for
30 development and promotion of the Elizabeth II State Historic Site and Visitor Center. After the
31 initial report, the Commission shall submit a quarterly report to the General Assembly within
32 30 days of the convening of each Regular Session of the General Assembly. Chairs of the
33 House Appropriations Subcommittee on General Government and the Chairs of the Senate
34 Appropriations Committee on General Government and Information Technology and to the
35 Fiscal Research Division of the General Assembly. The report shall include:

- 36 (1) A summary of actions taken by the Commission consistent with the powers
37 and duties of the Commission set forth in G.S. 143B-131.2.
- 38 (2) Recommendations for legislation and administrative action to promote and
39 develop the Elizabeth II State Historic Site and Visitor Center.
- 40 (3) An accounting of funds received and expended."
41
42

43 **MODIFY STATE HISTORIC SITES SPECIAL FUND TO INCLUDE STATE** 44 **HISTORY MUSEUMS**

45 **SECTION 18.2.** G.S. 121-7.7 reads as rewritten:

46 **"§ 121-7.7. State Historic Sites and Museums special fund.**

47 (a) Fund. – The State Historic Sites and Museums Fund is created as a special,
48 interest-bearing revenue fund in the Division of State Historic ~~Sites~~. ~~Sites and the Division of~~
49 State History Museums. The Fund consists of all receipts derived from the lease or rental of
50 property or facilities, disposition of structures or products of the land, private donations, and
51 admissions and fees collected at the State Historic ~~Sites~~. ~~Sites,~~ State History Museums, and
52 Maritime Museums. The revenues in the Fund may be used only for the operation,
53 interpretation, maintenance, preservation, development, and expansion of the individual State
54 Historic ~~Site~~ ~~Site,~~ State History Museum, and Maritime Museum where the receipts are
55 generated. The respective Division and the staff from each State Historic ~~Site~~ ~~Site,~~ State History
56 Museum, and Maritime Museum will determine how the funds will be used at that Historic
57 Site. Site, State History Museum, and Maritime Museum.

58 (b) Application. – This section applies to the individual State Historic Sites and State
59 History and Maritime Museums owned by or under the control of the Division of State Historic

1 ~~Sites, Sites and the Division of State History Museums, with the exception of the Bentonville~~
2 ~~Battlefield State Historic Site, Site and the North Carolina Transportation Museum. The~~
3 ~~Bentonville Battlefield State Historic Site is subject to G.S. 121-7.5. The North Carolina~~
4 ~~Transportation Museum is subject to G.S. 121-7.6.~~

5 (c) Reports. – The Department of Cultural Resources must submit to the Joint
6 Legislative Commission on Governmental Operations, the House of Representatives and
7 Senate Appropriations Subcommittees on General Government, and the Fiscal Research
8 Division by September 30 of each year a report on the Fund that includes the source and
9 amounts of all funds credited to the Fund and the purpose and amount of all expenditures from
10 the Fund during the prior fiscal year."

11
12 **REQUIRE DEPARTMENT OF CULTURAL RESOURCES AND ROANOKE ISLAND**
13 **COMMISSION TO DEVELOP FIVE-YEAR PLANS FOR CERTAIN HISTORIC**
14 **SITES**

15 **SECTION 18.3.** The Department of Cultural Resources shall develop
16 comprehensive five-year plans for the Tryon Palace Historic Sites and Gardens and the North
17 Carolina Transportation Museum. The Roanoke Island Commission shall develop a
18 comprehensive five-year plan for the Elizabeth II State Historic Site and Visitor Center, the
19 Elizabeth II, Ice Plant Island, and all other properties under the administration of the
20 Department of Cultural Resources located on Roanoke Island. The plans shall describe in
21 detail revenue and expenditure projections, proposed reductions in scope or expenditures, and
22 each site's plans to further develop non-State sources of funding in accordance with the
23 reductions in appropriations implemented in S.L. 2011-145, including the feasibility of
24 privatization. The Department and the Roanoke Island Commission shall submit their reports to
25 the Chairs of the House Appropriations Subcommittee on General Government and the Chairs
26 of the Senate Appropriations Committee on General Government and Information Technology
27 by February 1, 2013.

28
29 **PART XIX. GENERAL ASSEMBLY**

30
31 **PROGRAM EVALUATION DIVISION TO STUDY THE DUTIES AND SERVICES OF**
32 **THE NORTH CAROLINA HUMAN RELATIONS COMMISSION AND THE**
33 **CIVIL RIGHTS DIVISION OF THE OFFICE OF ADMINISTRATIVE HEARINGS**

34 **SECTION 19.1.** Section 20.2 of S.L. 2011-145, as amended by Section 45(b) of
35 S.L. 2011-391, reads as rewritten:

36 "**SECTION 20.2.(a)** ~~The Legislative Research Commission is authorized to~~Program
37 Evaluation Division shall study the duties and services of the North Carolina Human Relations
38 Commission and the Civil Rights Division of the Office of Administrative Hearings to
39 determine whether there is unnecessary overlap and duplication of services and recommend the
40 placement of the Commission and Division in the appropriate agency or agencies.

41 "**SECTION 20.2.(b)** ~~The Legislative Research Commission may make an interim report~~
42 ~~by May 1, 2012, to the Chairs of the House Appropriations Subcommittee on General~~
43 ~~Government and the Chairs of the Senate Appropriations Committee on General Government~~
44 ~~and Information Technology.~~Program Evaluation Division shall report its findings upon the
45 convening of the 2013 General Assembly.

46 "**SECTION 20.2.(c)** This section is effective when it becomes law."

47
48 **PART XX. DEPARTMENT OF INSURANCE**

49
50 **DOI TO STUDY FIRE PROTECTION GRANT FUND**

51 **SECTION 20.1.(a)** The Department of Insurance shall study how the fund
52 distribution method for the State Fire Protection Grant Fund could more fully meet the
53 requirement of G.S. 58-85A-1(b) that the distribution method be equitable and uniform. The
54 study shall consider the following factors, as well as any other factors the Department finds
55 relevant:

- 56 (1) Whether the basis for determining the amount of compensation due a local
57 fire district or political subdivision for providing local fire protection to
58 State-owned buildings and their contents actually reflects the cost to the

1 local fire district or political subdivision of providing the fire protection
2 services.

- 3 (2) How the division in funds among properties supported by the General Fund,
4 properties supported by the Highway Fund, and properties supported by The
5 University of North Carolina receipts required by G.S. 58-85A-1(c) should
6 be revised to support fire protection services provided to State-owned
7 properties not receiving support from those Funds or receipts.

8 **SECTION 20.1.(b)** The Department shall report its findings and any
9 recommendations for revision of the fund distribution method to the House and Senate
10 Appropriations Subcommittees on General Government and to the Fiscal Research Division on
11 or before October 1, 2012.

12 **INCREASE CONSUMER PROTECTION FUND RETAINED AMOUNT**

13 **SECTION 20.2.** G.S. 58-2-215 reads as rewritten:

14 **"§ 58-2-215. Consumer Protection Fund.**

15 ...
16 ...
17 (c) Moneys appropriated by the General Assembly shall be deposited in the Fund and
18 shall become a part of the continuation budget of the Department of Insurance. Such
19 continuation budget amount shall equal the actual expenditures drawn from the Fund during the
20 prior fiscal year plus the official inflation rate designated by the Director of the Budget in the
21 preparation of the State Budget for each ensuing fiscal year; provided that if interest income on
22 the Fund exceeds the amount yielded by the application of the official inflation rate, such
23 continuation budget amount shall be the actual expenditures drawn from the Fund, ~~except that~~
24 ~~the appropriation for the 1995-96 fiscal year shall not exceed the sum of seven hundred fifty~~
25 ~~thousand dollars (\$750,000) and for the 1996-97 fiscal year shall not exceed the sum of two~~
26 ~~hundred fifty thousand dollars (\$250,000). Fund.~~ In the event the amount in the Fund exceeds
27 ~~two hundred fifty thousand dollars (\$250,000) five hundred thousand dollars (\$500,000) at the~~
28 ~~end of any fiscal year, beginning with the 1995-96 fiscal year, such excess shall revert to the~~
29 ~~General Fund.~~

30"

31 **FUNDING OF BUILDING CODE REVIEWS FOR STATE BUILDINGS**

32 **SECTION 20.3.** Section 7 of Session Law 2009-474 reads as rewritten:

33 **"SECTION 7.** The Department of Insurance shall transfer to the Department of
34 Administration four building code review positions selected by the Department of
35 Administration for the purpose of assisting the Department of Administration in administering
36 G.S. 143-341(3) and G.S. 143-139(e). These positions shall be supported by the Insurance
37 Regulatory Fund at one hundred percent (100%) of the full budgeted amount for each position
38 from fiscal year 2009-2010 through fiscal year 2011-2012. ~~Beginning fiscal year 2012-2013,~~
39 ~~the State Treasurer, as custodian of the State Property Fire Insurance Fund, shall support those~~
40 ~~positions out of the State Property Fire Insurance Fund position."~~

41 **DOI TO ASSESS VOLUNTEER SAFETY WORKERS COMPENSATION FUND**

42 **SECTION 20.4.(a)** The Department of Insurance, from funds available to it, shall
43 contract with an independent actuary to assess the Volunteer Safety Workers Compensation
44 Fund. The assessment shall include the following components:

- 45 (1) Recommendations as to the level of funding required to ensure that the Fund
46 can meet its financial obligations.
47 (2) The level and duration of funding required for the Fund to become
48 self-sufficient in the future.
49 (3) The nature of the claims paid by the Fund and any claims-related trends that
50 impact the health of the Fund.
51 (4) Recommendations as to the appropriate level of premiums to be paid by
52 members or their departments.
53 (5) A projection of revenues to the Fund from sources other than State funding.
54 (6) A comparison of the projected timing and risk of the cash flow from
55 investments with the cash flow needed to pay claims.

56 No later than October 1, 2012, the Department shall report the independent actuary's
57 assessment and findings and also provide a comparison of the premiums paid into the Fund and
58
59

1 premiums paid by municipal fire departments for their employees' workers compensation
2 insurance to the Chairs of the House of Representatives and Senate Appropriations
3 Committees, the Chairs of the House of Representatives and Senate Appropriations
4 Subcommittees on General Government, and the Fiscal Research Division.

5 **SECTION 20.4.(b)** The General Assembly anticipates that local contributions to
6 the fund by premiums or otherwise will need to be increased beginning with fiscal year
7 2013-2014 to restore the actuarial soundness of the Fund.

8 9 **PART XXI. DEPARTMENT OF THE SECRETARY OF STATE**

10 11 **TREAT FEES COLLECTED BY CHARITABLE LICENSING DIVISION LIKE** 12 **OTHER FEES COLLECTED BY THE SECRETARY OF STATE**

13 **SECTION 21.1.** Fees collected under Chapter 131F of the General Statutes shall
14 be deposited into the General Fund.

15 16 **PART XXII. OFFICE OF STATE BUDGET AND MANAGEMENT**

17 18 **NC SYMPHONY FUNDING**

19 **SECTION 22.1.** Section 25.2 of S.L. 2011-145 reads as rewritten:

20 "**SECTION 25.2.(a)** Of the funds appropriated in this act to the Office of State Budget and
21 Management-Special Appropriations, the sum of one million five hundred thousand dollars
22 (\$1,500,000) in nonrecurring funds for the ~~2011-2012~~2012-2013 fiscal year shall be allocated
23 to the North Carolina Symphony in accordance with this section.

24 "**SECTION 25.2.(b)** It is the intent of the General Assembly that the NC Symphony
25 achieve its goal of raising the sum of eight million dollars (\$8,000,000) in non-State funding to
26 support the operations of the Symphony. To that end, upon demonstrating to the Office of State
27 Budget and Management that the NC Symphony has reached fund-raising targets in the
28 amounts set forth in this subsection, the NC Symphony shall receive allocations from the
29 Office of State Budget and Management as follows:

- 30 (1) Upon raising the initial sum of four million dollars (\$4,000,000) in non-State
31 funding, the NC Symphony shall receive the sum of five hundred thousand
32 dollars (\$500,000).
- 33 (2) Upon raising an additional sum of two million dollars (\$2,000,000) in
34 non-State funding for a total amount of six million dollars (\$6,000,000) in
35 non-State funds, the NC Symphony shall receive the sum of five hundred
36 thousand dollars (\$500,000).
- 37 (3) Upon raising an additional sum of two million dollars (\$2,000,000) in
38 non-State funding for a total sum of eight million dollars (\$8,000,000) in
39 non-State funds, the NC Symphony shall receive the final sum of five
40 hundred thousand dollars (\$500,000) for the ~~2011-2012~~2012-2013
41 fiscal year.

42 "**SECTION 25.2.(c)** The NC Symphony cannot use funds transferred from the
43 organization's endowment to its operating budget to achieve the fund-raising targets set forth in
44 subsection (b) of this section. Funds allocated pursuant to this section are in addition to any
45 other funds allocated to the NC Symphony in this act."

46 47 **AUTHORIZATION TO SPEND FUNDS FOR CERTAIN PURPOSES**

48 **SECTION 22.2.** Notwithstanding G.S. 143C-6-5, the Office of State Budget and
49 Management may use funds within Budget Code 13005 to do the following:

- 50 (1) Reclassify one or more vacant positions to Senior Economists to provide
51 support in developing Medicaid projections and monitoring Medicaid
52 expenditures.
- 53 (2) Support Integrated Budget Information System ongoing operations and
54 maintenance costs.

55 56 **PART XXII-A. DEPARTMENT OF REVENUE**

57 58 **PROSECUTION OF CASES INVOLVING TAX FRAUD**

1 **SECTION 22A.1.** The Department of Revenue and the Department of Justice shall
2 enter into an agreement through which the Department of Revenue shall provide funding for an
3 Attorney IV to be employed by the Department of Justice. This position shall be assigned on a
4 full-time basis to assist the Department of Revenue in the investigation and prosecution of
5 cases involving tax fraud.

6 The agreement shall specify that the attorney shall report periodically to the
7 Secretary of Revenue on his or her work time devoted to prosecution of tax fraud cases rather
8 than to other work within the Department of Justice.
9

10 **PART XXIII. STATE BOARD OF ELECTIONS**

11 **HAVA FUNDS/DISABILITY ACCESS**

12 **SECTION 23.1.** The State Board of Elections shall not expend any Help America
13 Vote Funds (HAVA) Title II Funds for the 2012-2013 fiscal year and, unless prohibited by
14 federal law, shall retain those funds until Maintenance of Effort funds are appropriated, except
15 that voting accessibility funds granted by the Secretary of Health and Human Services under
16 Section 261 of HAVA may be applied for and expended by the State Board of Elections to
17 improve voting accessibility for the disabled.
18
19

20 **ELECTION SYSTEM MAINTENANCE CONTRACTS**

21 **SECTION 23.3.(a)** G.S. 163-165.9(b)(2) reads as rewritten:

22 "(b) After the acquisition of any voting system, the county board of elections shall
23 comply with any requirements of the State Board of Elections regarding training and support of
24 the voting system by completing all of the following:
25

26 ...

27 (2) The county board of elections shall annually maintain software license and
28 maintenance agreements necessary to maintain the warranty of its voting
29 system. A county board of elections may employ qualified personnel to
30 maintain a voting system in lieu of entering into maintenance agreements
31 necessary to maintain the warranty of its voting system. State Board of
32 Elections is not required to provide routine maintenance to any county board
33 of elections that does not maintain the warranty of its voting system. If the
34 State Board of Elections provides any maintenance to a county that has not
35 maintained the warranty of its voting system, the county shall reimburse the
36 State for the cost. The State Board of Elections shall annually report to the
37 House and Senate Committees on Appropriations, to the Fiscal Research
38 Division, and to the Joint Legislative Commission on Governmental
39 Operations on implementation of this subdivision. If requested by the county
40 board of elections, the State Board of Elections may enter into contracts on
41 behalf of that county under this subdivision, but such contracts must also be
42 approved by the county board of elections. Any contract entered into under
43 this subdivision shall be paid from non-State funds. Neither a county nor the
44 State Board of Elections shall enter into any contract with any vendor for
45 software license and maintenance agreements unless the vendor agrees to (i)
46 operate a training program for qualification of county personnel under this
47 subsection with training offered within the State of North Carolina and (ii)
48 not dishonor warranties merely because the county is employing qualified
49 personnel to maintain the voting system as long as the county:

- 50 a. Pays the costs of the annual software licensing agreement for that
51 county.
52 b. Ensures that equipment (i) remains in full compliance with State
53 certification requirements and (ii) remains in stock and supply
54 available to the county for up to five years after the vendor
55 discontinues distribution or sale of the equipment.
56 c. Maintains a tracking record to record and timely report all hardware
57 issues and all repairs and provides those records for review by the
58 vendor and by the State Board of Elections.
59 d. Provides that only parts provided by the vendor would be used to
repair the vendor's equipment, contingent on (i) the county being able

1 to purchase necessary parts in a timely manner from the vendor and
 2 (ii) the vendor providing the equipment at least at the lowest price at
 3 which it sells the equipment to any other customer in the United
 4 States.

5 e. Accepts financial responsibility for expenses related to voting
 6 equipment failure during an election if the failure is caused solely by
 7 work of the county technician."

8 **SECTION 23.3.(b)** In administering G.S. 163-165.9(b)(2), as amended by this
 9 section, the State Board of Elections shall work with all county boards of elections interested in
 10 obtaining certification for voting equipment maintenance technicians. The State Board of
 11 Elections shall work with the county boards of elections to develop a consensus estimate of the
 12 percentage of hardware maintenance previously provided by the vendor that will continue to be
 13 provided by the vendor rather than by the certified county technicians. In any contract entered
 14 into by either a county or the State Board of Elections on behalf of counties for voter
 15 equipment maintenance that includes certification of county technicians, the price paid for
 16 hardware maintenance agreements shall not exceed the equivalent of the consensus percentage
 17 multiplied by the number of machines multiplied by the price per machine paid to the vendor
 18 for hardware maintenance agreements for the 2011-2012 fiscal year.

19 **SECTION 23.3.(c)** The amendment to G.S. 163-165.9(b)(2) made by subsection
 20 (a) of this section applies to contracts entered into, modified, or extended on or after July 1,
 21 2012.

22 **SBOE SUPPLEMENTAL REPORT ON VOTER-OWNED ELECTIONS ACT**

23 **SECTION 23.5.** The State Board of Elections shall not later than July 25, 2012,
 24 provide to the Joint Legislative Commission on Governmental Operations and to the Fiscal
 25 Research Division a supplemental report on the administration and implementation of Article
 26 22J of Chapter 163 of the General Statutes, the Voter-Owned Elections Act, including all
 27 certified candidates for the 2012 General Election and the amounts that have been and will be
 28 distributed to each such candidate.

29 **PART XXIV. DEPARTMENT OF TRANSPORTATION**

30 **CASH FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATIONS**

31 **SECTION 24.1.(a)** Section 28.1 of S.L. 2011-145 is repealed.

32 **SECTION 24.1.(b)** The General Assembly authorizes and certifies anticipated
 33 revenues for the Highway Fund as follows:

34	For Fiscal Year 2013-2014	\$ 2,162.1 million
35	For Fiscal Year 2014-2015	\$ 2,281.8 million
36	For Fiscal Year 2015-2016	\$ 2,407.2 million
37	For Fiscal Year 2016-2017	\$ 2,523.8 million

38 **SECTION 24.1.(c)** The General Assembly authorizes and certifies anticipated
 39 revenues for the Highway Trust Fund as follows:

40	For Fiscal Year 2013-2014	\$ 1,120.0 million
41	For Fiscal Year 2014-2015	\$ 1,195.5 million
42	For Fiscal Year 2015-2016	\$ 1,284.0 million
43	For Fiscal Year 2016-2017	\$ 1,336.9 million

44 **FURTHER PRIVATIZATION OF PRE-CONSTRUCTION ACTIVITIES**

45 **SECTION 24.2.** For fiscal year 2013-2014, the Department of Transportation shall
 46 increase the outsourcing of preliminary engineering projects from fifty percent (50%) of the
 47 total funds in the annual work plan, as required by Section 28.9.(3) of S.L. 2011-145, to sixty
 48 percent (60%) of the total funds in the annual work plan.

49 **FUNDS FROM INSPECTION PROGRAM ACCOUNT FOR OTHER HIGHWAY 50 FUND USES**

51 **SECTION 24.3.** Notwithstanding G.S. 20-183.7(d), the sum of five million dollars
 52 (\$5,000,000) from the Inspection Program Account within the Highway Fund, as established
 53 under G.S. 20-183.7(d), is appropriated and allocated as shown in this act.

54 **CLARIFY USE OF CREDIT RESERVE BALANCE IN HIGHWAY FUND**

1 **SECTION 24.6.** G.S. 136-44.2 reads as rewritten:

2 "**§ 136-44.2. Budget and appropriations.**

3 (a) The Director of the Budget shall include in the "Current Operations Appropriations
4 Act" an enumeration of the purposes or objects of the proposed expenditures for each of the
5 construction and maintenance programs for that budget period for the State primary, secondary,
6 State parks road systems, and other transportation systems. The State primary system shall
7 include all portions of the State highway system located both inside and outside municipal
8 corporate limits that are designated by N.C., U.S. or Interstate numbers. The State secondary
9 system shall include all of the State highway system located both inside and outside municipal
10 corporate limits that is not a part of the State primary system. The State parks system shall
11 include all State parks roads and parking lots that are not also part of the State highway system.
12 The transportation systems shall include State-maintained, nonhighway modes of transportation
13 as well.

14 (b) All construction and maintenance programs for which appropriations are requested
15 shall be enumerated separately in the budget. Programs that are entirely State funded shall be
16 listed separately from those programs involving the use of federal-aid funds. Proposed
17 appropriations of State matching funds for each of the federal-aid construction programs shall
18 be enumerated separately as well as the federal-aid funds anticipated for each program in order
19 that the total construction requirements for each program may be provided for in the budget.
20 Also, proposed State matching funds for the highway planning and research program shall be
21 included separately along with the anticipated federal-aid funds for that purpose.

22 (c) Other program categories for which appropriations are requested, such as, but not
23 limited to, maintenance, channelization and traffic control, bridge maintenance, public service
24 and access road construction, transportation projects and systems, and ferry operations shall be
25 enumerated in the budget.

26 (d) The Department of Transportation shall have all powers necessary to comply fully
27 with provisions of present and future federal-aid acts. For purposes of this section, "federally
28 eligible construction project" means any construction project except secondary road projects
29 developed pursuant to G.S. 136-44.7 and 136-44.8 eligible for federal funds under any
30 federal-aid act, whether or not federal funds are actually available.

31 (e) The "Current Operations Appropriations Act" shall also contain the proposed
32 appropriations of State funds for use in each county for maintenance and construction of
33 secondary roads, to be allocated in accordance with G.S. 136-44.5 and 136-44.6. State funds
34 appropriated for secondary roads shall not be transferred nor used except for the construction
35 and maintenance of secondary roads in the county for which they are allocated pursuant to
36 G.S. 136-44.5 and 136-44.6.

37 (f) If the unreserved credit balance in the Highway Fund on the last day of a fiscal year
38 is greater than the amount estimated for that date in the Current Operations Appropriations Act
39 for the following fiscal year, the excess shall be used in accordance with this ~~paragraph-~~
40 subsection. The Director of the Budget ~~may~~ shall allocate ~~part or all of the excess among~~
41 reserves to a reserve (i) for access and public roads, for unforeseen events requiring prompt
42 action, roads or (ii) for other urgent needs. The amount not allocated to any of these reserves by
43 the Director of the Budget shall be credited to a reserve for maintenance. The Board of
44 Transportation shall report monthly to the Joint Legislative Transportation Oversight
45 Committee and the Fiscal Research Division on the use of funds in the maintenance reserve.
46 The use of this reserve shall be subject to the following:

47 (1) Restrictions on use. – No more than five million dollars (\$5,000,000) from
48 this reserve may be spent on a single project. Funds from this reserve being
49 used for an "other urgent need" project cannot be used for administrative
50 costs, information technology costs, or economic development.

51 (2) Approval. – The Department of Transportation shall submit for approval to
52 the Director of the Budget all expenditures from the reserve established
53 under this subsection.

54 (3) Reporting. – At least five days, not including State holidays or weekend
55 days, prior to submitting an expenditure request to the Director of the
56 Budget under subdivision (2) of this subsection, the Department of
57 Transportation shall submit a report on the expenditure request to the Fiscal
58 Research Division and to the members of the House Appropriations
59 Subcommittee on Transportation and the Senate Appropriations Committee

1 on Department of Transportation. Such report shall be certified by the chief
 2 financial officer of the Department of Transportation and shall include (i) a
 3 project description, (ii) whether the project is for access and public roads or
 4 for other urgent needs, (iii) a justification of the project, (iv) the total project
 5 cost, (v) the amount of funding for the project coming from the reserve, and
 6 (vi) other funding sources for the project.

7 (4) Carryforward. – If on the last day of the fiscal year the balance in the reserve
 8 established by this subsection is greater than five million dollars
 9 (\$5,000,000), then the Director of the Budget shall transfer the amount in
 10 excess of that sum to the Reserve for General Maintenance in the Highway
 11 Fund.

12 (g) The Department of Transportation may provide for costs incurred or accrued for
 13 traffic control measures to be taken by the Department at major events which involve a high
 14 degree of traffic concentration on State highways, and which cannot be funded from regular
 15 budgeted items. This authorization applies only to events which are expected to generate
 16 30,000 vehicles or more per day. The Department of Transportation shall provide for this
 17 funding by allocating and reserving up to one hundred thousand dollars (\$100,000) before any
 18 other allocations from the appropriations for State maintenance for primary, secondary, and
 19 urban road systems are made, based upon the same proportion as is appropriated to each
 20 system."

21 ADJUST TURNPIKE GAP FUND APPROPRIATIONS

22 **SECTION 24.7.(a)** Any funds appropriated to the North Carolina Turnpike
 23 Authority under G.S. 136-176(b2) to cover debt service or related financing costs for the
 24 Mid-Currituck Bridge project and that remain unencumbered at the end of fiscal year
 25 2011-2012 are hereby transferred back to the Highway Trust Fund to be appropriated and
 26 allocated as shown in this act.

27 **SECTION 24.7.(b)** Notwithstanding G.S. 136-176(b2), the funds appropriated
 28 under G.S. 136-176(b2) to the Mid-Currituck Bridge and Garden Parkway projects for fiscal
 29 year 2012-2013 are hereby transferred back to the Highway Trust Fund to be appropriated and
 30 allocated as shown in this act.

31 CODIFY MOBILITY FUND FORMULA DEVELOPED BY DEPARTMENT OF 32 TRANSPORTATION

33 **SECTION 24.8.(a)** G.S. 136-188 reads as rewritten:

34 "§ 136-188. Use of North Carolina Mobility Fund.

35 (a) The Department of Transportation shall use the Mobility Fund to fund
 36 transportation projects, selected by the Department, of statewide and regional significance that
 37 relieve congestion and enhance mobility across all modes of transportation. ~~The Department of~~
 38 ~~Transportation shall establish project selection criteria based on the provisions of this Article.~~

39 (b) ~~The~~ Notwithstanding subsections (c) and (d) of this section, the initial project
 40 funded from the Mobility Fund shall be the widening and improvement of Interstate 85 north of
 41 the Yadkin River Bridge.

42 (c) To be eligible for funding from the Mobility Fund, a project must meet the
 43 following requirements:

44 (1) The project must be on statewide or Regional tier facilities.

45 (2) The project must be ready to have funds obligated for construction within
 46 five years.

47 (3) The project must be (i) consistent with MPO/RPO transportation planning
 48 efforts, (ii) included in an adopted transportation plan, and (iii) found to be
 49 consistent with local land-use plans, where available. As used in this
 50 subdivision, "MPO" means metropolitan planning organization and "RPO"
 51 means rural transportation planning organization.

52 (4) The project must be in a conforming transportation plan if the project is in a
 53 non-attainment or maintenance area.

54 (5) Only the project's capital costs, including right-of-way acquisition and
 55 construction, may be funded. Maintenance, operation, and planning costs
 56 may not be funded from the Mobility Fund.

- 1 (6) There is no minimum project capital cost as a threshold for funding a
2 project.
- 3 (d) Eligible projects shall be scored and ranked, with the highest scored projects
4 receiving funding priority. Ranking scores shall be determined according to the following
5 formula:
- 6 (1) Mobility benefit-cost. – Eighty percent (80%) of the ranking score shall be
7 the estimated travel time savings in vehicle hours that the project will
8 provide over 30 years divided by the cost of the project to the Mobility
9 Fund.
- 10 (2) Multimodal/intermodal. – Twenty percent (20%) of the ranking score shall
11 be based on whether the project provides an improvement to more than one
12 mode of transportation and what types of other modes of transportation are
13 involved in the project. Using a scale from zero to 100, the Department of
14 Transportation shall provide for the assignment of points under this
15 subdivision. The Department's determination of a point system under this
16 subdivision shall not be subject to rulemaking under Chapter 150B of the
17 General Statutes."

18 **SECTION 24.8.(b)** Section 28.33(c) of S.L. 2011-145 is repealed.

19
20 **CIVIL PENALTIES TO BE TREATED AS RECEIPTS FOR TRANSFER TO CIVIL**
21 **PENALTY AND FORFEITURE FUND**

22 **SECTION 24.9.** The clear proceeds of all civil penalties, civil forfeitures, and civil
23 fines collected by the Department of Transportation for transfer to the Civil Penalty and
24 Forfeiture Fund and which are currently recorded as revenue in the Highway Fund (Budget
25 Code 84210) shall be eliminated from the Estimated Revenue for the Highway Fund. The
26 corresponding Highway Fund appropriation in Fund 150889 shall also be eliminated.

27 Rather than recording the proceeds as revenue, the clear proceeds of all civil
28 penalties, civil forfeitures, and civil fines collected by the Department of Transportation for
29 transfer to the Civil Penalty and Forfeiture Fund shall be recorded as receipts and budgeted in a
30 totally receipt-supported fund center (150889) in the Highway Fund (Budget Code 84210) for
31 transfer to the Civil Penalty and Forfeiture Fund.

32
33 **POSITIONS IN SUPPORT OF THE COMBINED MOTOR VEHICLE**
34 **REGISTRATION AND PROPERTY TAX COLLECTION SYSTEM**

35 **SECTION 24.10.(a)** Upon request from the Department of Transportation and
36 notwithstanding any other provision of law to the contrary, the Office of State Budget and
37 Management may authorize the creation of time-limited, full-time equivalent positions within
38 the Department of Transportation and its Division of Motor Vehicles in excess of the positions
39 authorized by this act for the sole purposes of implementing and administering the combined
40 motor vehicle registration and property tax collection system, in accordance with the funding
41 authorizations in G.S. 105-330.5 and G.S. 105-330.10. Positions created under this
42 authorization shall terminate no later than June 30, 2014. Following the approval of a request,
43 the Office of State Budget and Management shall direct the transfer of funds from the
44 Combined Motor Vehicle and Registration Account, also known as the Division of Motor
45 Vehicles Taxation Interest Fund for Integrated Computer System, to support personnel and
46 related operating costs for the positions approved under this section.

47 **SECTION 24.10.(b)** Beginning October 1, 2012, the Office of State Budget and
48 Management shall report quarterly on all transfers of funds from the Combined Motor Vehicle
49 and Registration Account (Combined Account) and positions supported by the Combined
50 Account during the 2012-2013 fiscal year to the House Appropriations Subcommittee on
51 Transportation, the Senate Appropriations Committee on Department of Transportation, the
52 Joint Legislative Transportation Oversight Committee, and the Fiscal Research Division. The
53 report shall include, at a minimum, the following:

- 54 (1) A summary of activities funded by the Combined Account to date.
55 (2) Amounts transferred from the Combined Account and expended per activity.
56 (3) A detailed listing of positions funded by receipts to the Combined Account,
57 identifying the position number, title, effective date and duration, cost,
58 functions performed, and organizational unit to which the position is
59 assigned.

1 **SECTION 24.10.(c)** No later than May 1, 2013, the Department of Revenue and
2 the Department of Transportation shall jointly report on the status of the Memorandum of
3 Understanding required by G.S. 105-330.11 to the following: the House Appropriations
4 Subcommittee on Transportation, the Senate Appropriations Committee on Department of
5 Transportation, the cochairs of the House Appropriations Committee, the cochairs of the Senate
6 Appropriations/Base Budget Committee, and the Fiscal Research Division. The report shall
7 identify the estimated recurring costs of system administration and proposed administrative
8 fees to support the costs of combined notice generation and collection of registration fees and
9 vehicle property taxes.

10 **REDUCE MOTOR FUEL EXCISE TAX RATE**

11 **SECTION 24.11.** Notwithstanding G.S. 105-449.80(a), for the period July 1, 2012,
12 through June 30, 2013, the motor fuel excise tax rate may not exceed thirty-seven and one-half
13 cents (37 1/2¢) a gallon.

14 **USE OF UNEXPENDED CONTINGENCY FUNDS**

15 **SECTION 24.12.** Notwithstanding any other provision of law and not including
16 the funds appropriated in Section 28.6(2) of S.L. 2011-145 for the 2011-2013 fiscal biennium,
17 the sum of twenty-two million dollars (\$22,000,000) is transferred from the unexpended
18 balance of contingency fund appropriations to the Highway Fund. That sum is appropriated and
19 allocated as shown in this act.

20 **INCREASE GENERAL FUND TRANSFER FROM HIGHWAY FUND**

21 **SECTION 24.13.** Notwithstanding Section 28.27(b) of S.L. 2011-145 or any other
22 provision of that act, as amended, the amount transferred from the Highway Fund to the
23 General Fund under that act is hereby increased by eight million dollars (\$8,000,000) in fiscal
24 year 2012-2013.

25 **EXEMPT B.S.I.P. SYSTEM FROM INFORMATION TECHNOLOGY HOSTING 26 REQUIREMENT**

27 **SECTION 24.14.** Section 6A.2(f) of S.L. 2011-145, as amended by Section 11(c)
28 of S.L. 2011-391, reads as rewritten:

29 "**SECTION 6A.2.(f)** Information Technology Hosting. – State agencies developing and
30 implementing information technology projects/applications shall use the State infrastructure to
31 host their ~~projects~~ projects, except for the SAP Business System Integration Portal (BSIP)
32 system of the North Carolina Department of Transportation. An exception to this requirement
33 may be granted only if approved by either the State Chief Information Officer on the basis of
34 technology requirements or by the Office of State Budget and Management based on cost
35 savings, subject to consultation with the Joint Legislative Commission on Governmental
36 Operations and a report to the Joint Legislative Oversight Committee on Information
37 Technology.

38 Projects/applications currently hosted outside the State infrastructure shall be returned to
39 State infrastructure not later than the end of any current contract.

40 By October 1, 2011, the State Chief Information Officer shall report to the Joint Legislative
41 Oversight Committee on Information Technology regarding projects currently hosted outside
42 State infrastructure and a schedule to return those projects to State infrastructure."

43 **PRIORITIZE PAVING OF UNPAVED ROADS THROUGHOUT THE STATE**

44 **SECTION 24.15.** For fiscal year 2012-2013, the Department of Transportation
45 shall expend funds allocated to the paving of unpaved secondary roads for the paving of
46 unpaved secondary roads based on a statewide prioritization. The Department shall pave the
47 eligible unpaved secondary roads that receive the highest priority ranking within this statewide
48 prioritization, notwithstanding the distribution formula in G.S. 136-17.2A or any other funding
49 distribution formula in law. This section applies to funding for the paving of secondary roads
50 from both the Highway Fund and the Highway Trust Fund.

51 **APPLY STATE ETHICS ACT TO METROPOLITAN PLANNING ORGANIZATIONS 52 AND RURAL PLANNING ORGANIZATIONS**

53 **SECTION 24.16.(a)** G.S. 136-202 is amended by adding a new subsection to read:

1 "(e) A Metropolitan Planning Organization shall be treated as a board for purposes of
2 Chapter 138A of the General Statutes."

3 **SECTION 24.16.(b)** G.S. 136-211 is amended by adding a new subsection to read:
4 "(e) Ethics Requirements. – A Rural Transportation Planning Organization shall be
5 treated as a board for purposes of Chapter 138A of the General Statutes."

6 **SECTION 24.16.(c)** Members of Metropolitan Planning Organizations and Rural
7 Transportation Planning Organizations shall file an initial Statement of Economic Interest with
8 the State Ethics Commission no later than April 15, 2013. All information provided in the
9 Statement of Economic Interest shall be current as of December 31, 2012. The initial Statement
10 of Economic Interest shall be filed electronically.

11 **SECTION 24.16.(d)** This section becomes effective January 1, 2013.

12 **CLARIFY FERRY TOLLING**

13 **SECTION 24.18.(a)** G.S. 136-82 reads as rewritten:

14 **"§ 136-82. Department of Transportation to establish and maintain ferries.**

15 The Department of Transportation is vested with authority to provide for the establishment
16 and maintenance of ferries connecting the parts of the State highway system, whenever in its
17 discretion the public good may so require, and ~~to prescribe and shall collect such tolls therefor~~
18 ~~as may, in the discretion of the Department of Transportation, be expedient tolls, as established~~
19 ~~by the Board of Transportation, on the ferry routes.~~ The Board of Transportation shall establish
20 tolls for all ferry routes, except for the Ocracoke/Hatteras Ferry and the Knotts Island Ferry.

21 To accomplish the purpose of this section said Department of Transportation is authorized
22 to acquire, own, lease, charter or otherwise control all necessary vessels, boats, terminals or
23 other facilities required for the proper operation of such ferries or to enter into contracts with
24 persons, firms or corporations for the operation thereof and to pay therefor such reasonable
25 sums as may in the opinion of said Department of Transportation represent the fair value of the
26 public service rendered.

27 The Department of Transportation, notwithstanding any other provision of law, may
28 operate, or contract for the operation of, concessions on the ferries and at ferry facilities to
29 provide to passengers on the ferries food, drink, and other refreshments, personal comfort
30 items, and souvenirs publicizing the ferry system."

31 **SECTION 24.18.(b)** The Department of Transportation shall disregard Executive
32 Order No. 116, or any other executive order pertaining to ferry tolls, and shall collect the tolls
33 required by S.L. 2011-145 and this section, except for the Cherry Branch/Minnesott Beach
34 route, for which the Department of Transportation shall not collect the increased tolls required
35 by S.L. 2011-145 during fiscal year 2012-2013.

36 **PUBLIC TRANSPORTATION FUNDING ADJUSTMENTS**

37 **SECTION 24.19.(a)** The Regional New Starts & Capital Program within the
38 Public Transportation Division of the Department of Transportation is eliminated. The
39 unexpended balance of funds for this program is reallocated to the LYNX Blue Line
40 Extension/Northeast Corridor project.

41 **SECTION 24.19.(b)** Effective July 1, 2013, G.S. 136-176 is amended by adding a
42 new subsection to read as follows:

43 **"§ 136-176. Creation, revenue sources, and purpose of North Carolina Highway Trust**
44 **Fund.**

45 ...
46 (e) Subject to G.S. 136-17.2A and other funding distribution formulas, funds allocated
47 under subdivisions (1), (3), and (4) of subsection (b) of this section may also be used for fixed
48 guideway projects, including providing matching funds for federal grants for fixed guideway
49 projects."

50 **REPEAL PROGRAM EVALUATION DIVISION STUDY OF NORTH CAROLINA** 51 **RAILROAD COMPANY**

52 **SECTION 24.20.** Section 28.12A of S.L. 2011-145, as amended by Section 52 of
53 S.L. 2011-391, is repealed.

54 **STUDY INTERSTATE 95 TOLLING**

1 **SECTION 24.21.(a)** The Department of Transportation shall conduct a
 2 comprehensive study of the transportation corridor containing Interstate 95, including, but not
 3 limited to, the following:

- 4 (1) The economic impact of tolling the present road on the residents and
 5 businesses along the Interstate 95 corridor.
- 6 (2) The impact of tolling the present road on the alternative routes to Interstate
 7 95, including expected increased traffic on those routes, any safety issues
 8 created by any increased traffic on those routes, and expected travel time
 9 delays for drivers using the alternative routes.
- 10 (3) New or existing alternative routes for Interstate 95.
- 11 (4) Options for funding to make critical repairs and lane mile expansions to
 12 Interstate 95 without the use of tolls.

13 The Department shall solicit feedback on its various tolling proposals from the local
 14 governments and residents along the Interstate 95 corridor.

15 **SECTION 24.21.(b)** The Department of Transportation shall report the results of
 16 its study to the 2013 General Assembly by March 1, 2013.

17 **SECTION 24.21.(c)** Notwithstanding G.S. 136-89.198, the Department of
 18 Transportation shall not establish or collect tolls on Interstate 95 prior to July 1, 2014.

19
 20 **PART XXV. SALARIES AND BENEFITS**

21
 22 **GOVERNOR AND COUNCIL OF STATE**

23 **SECTION 25.01.(a)** Section 29.1(a) of S.L. 2011-145 reads as rewritten:

24 "**SECTION 29.1.(a)** Effective for the ~~2011-2013 fiscal biennium,~~2011-2012 fiscal year,
 25 the salary of the Governor set by G.S. 147-11(a) in the amount of one hundred thirty-nine
 26 thousand five hundred ninety dollars (\$139,590) annually, payable monthly, shall remain
 27 unchanged."

28 **SECTION 25.01.(b)** G.S. 147-11(a) reads as rewritten:

29 "(a) The salary of the Governor shall be ~~one hundred thirty nine thousand five hundred~~
 30 ~~ninety dollars (\$139,590) one hundred forty-one thousand two hundred sixty-five dollars~~
 31 (\$141,265) annually, payable monthly."

32 **SECTION 25.01.(c)** The prefatory language contained in Section 29.1(b) of S.L.
 33 2011-145 reads as rewritten:

34 "**SECTION 29.1.(b)** Effective for the ~~2011-2013 fiscal biennium,~~2011-2012 fiscal year,
 35 the annual salaries for the members of the Council of State, payable monthly, ~~for the~~
 36 ~~2011-2013 fiscal biennium shall remain unchanged as follows:~~ are set as follows:".

37 **SECTION 25.01.(d)** Effective for the 2012-2013 fiscal year, the annual salaries for
 38 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

50
 51 **NONELECTED DEPARTMENT HEADS**

52 **SECTION 25.02.(a)** Section 29.2(a) of S.L. 2011-145 reads as rewritten:

53 "**SECTION 29.2.(a)** Effective for the ~~2011-2013 fiscal biennium,~~2011-2012 fiscal year,
 54 the salaries set by G.S. 143B-9, the maximum annual salaries, payable monthly, for the
 55 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

1	Secretary of Commerce	120,363
2	Secretary of Environment and Natural Resources	120,363
3	Secretary of Health and Human Services	120,363
4	Secretary of Public Safety	120,363
5	Secretary of Revenue	120,363
6	Secretary of Transportation	120,363".

7 **SECTION 25.02.(b)** Effective July 1, 2012, the maximum annual salaries, payable
 8 monthly, for the nonelected heads of the principal State departments are set as follows:
 9

10	<u>Nonelected Department Heads</u>	<u>Annual Salary</u>
11	Secretary of Administration	\$121,807
12	Secretary of Cultural Resources	121,807
13	Secretary of Commerce	121,807
14	Secretary of Environment and Natural Resources	121,807
15	Secretary of Health and Human Services	121,807
16	Secretary of Public Safety	121,807
17	Secretary of Revenue	121,807
18	Secretary of Transportation	121,807

19 **SECTION 25.02.(c)** G.S. 143B-9 reads as rewritten:

20 **"§ 143B-9. Appointment of officers and employees.**

21 The head of each principal State department, except those departments headed by popularly
 22 elected officers, shall be appointed by the Governor and serve at his pleasure.

23 The salary of the head of each of the principal State departments shall be set by the
 24 Governor, and the salary of elected officials shall be as provided by law.

25 The head of a principal State department shall appoint a chief deputy or chief assistant, and
 26 such chief deputy or chief assistant shall not be subject to the State Personnel Act. The salary of
 27 such chief deputy or chief assistant ~~shall, upon the recommendation of the Governor, be set by~~
 28 ~~the General Assembly, shall be set by the Governor.~~ Unless otherwise provided for in the
 29 Executive Organization Act of 1973, and subject to the provisions of the Personnel Act, the
 30 head of each principal State department shall designate the administrative head of each
 31 transferred agency and all employees of each division, section, or other unit of the principal
 32 State department."

33 **SECTION 25.02.(d)** Subsection (c) of this section applies to persons appointed on
 34 or after January 1, 2013. Subsection (b) of this section does not apply to such persons.
 35

36 **CERTAIN EXECUTIVE BRANCH OFFICIALS**

37 **SECTION 25.1.(a)** Section 29.3 of S.L. 2011-145 reads as rewritten:

38 **"CERTAIN EXECUTIVE BRANCH OFFICIALS**

39 **"SECTION 29.3.** Effective for the ~~2011-2013 fiscal biennium, 2012-2013 fiscal year, the~~
 40 annual salaries, payable monthly, for the following executive branch officials ~~shall remain~~
 41 ~~unchanged~~ are set as follows:
 42

43	<u>Executive Branch Officials</u>	<u>Annual Salary</u>
44	Chairman, Alcoholic Beverage Control Commission	\$109,553 \$110,868
45	State Controller	153,319 155,159
46	Commissioner of Motor Vehicles	109,553 110,868
47	Commissioner of Banks	123,198 124,676
48	Chairman, Employment Security Commission	120,363
49	<u>Chair, Board of Review, Division of Employment Security</u>	<u>122,255</u>
50	<u>Members, Board of Review, Division of Employment Security</u>	<u>120,737</u>
51	State Personnel Director	120,363 121,807
52	Chairman, Parole Commission	100,035 101,235
53	<u>Full-time Members of the Parole Commission</u>	<u>93,464</u>
54	<u>Part-time Members of the Parole Commission</u>	<u>46,178</u> 46,732
55	Chairman, Utilities Commission	137,203 138,849
56	Members of the Utilities Commission	123,198 124,676
57	Executive Director, Agency for Public	
58	<u>Telecommunications</u>	<u>92,356</u>
59	Director, Museum of Art	112,256 113,603

1 Executive Director, North Carolina
2 Agricultural Finance Authority
3 State Chief Information Officer

106,635,107,915
153,227,155,066".

4 **SECTION 25.1.(b)** G.S. 20-2(a) reads as rewritten:

5 "(a) Commissioner and Assistants. – The Division of Motor Vehicles shall be
6 administered by the Commissioner of Motor Vehicles, who shall be appointed by and serve at
7 the pleasure of the Secretary of the Department of Transportation. The Commissioner shall be
8 paid an annual salary to be fixed by the ~~General Assembly in the Current Operations~~
9 ~~Appropriations Act~~ Governor and allowed his traveling expenses as allowed by law.

10 In any action, proceeding, or matter of any kind, to which the Commissioner of Motor
11 Vehicles is a party or in which he may have an interest, all pleadings, legal notices, proof of
12 claim, warrants for collection, certificates of tax liability, executions, and other legal
13 documents, may be signed and verified on behalf of the Commissioner of Motor Vehicles by
14 the Assistant Commissioner of Motor Vehicles or by any director or assistant director of any
15 section of the Division of Motor Vehicles or by any other agent or employee of the Division so
16 authorized by the Commissioner of Motor Vehicles."

17 **SECTION 25.1.(c)** G.S. 126-3(a) reads as rewritten:

18 "(a) There is hereby established the Office of State Personnel (hereinafter referred to as
19 "the Office") which shall be placed for organizational purposes within the Department of
20 Administration. Notwithstanding the provisions of North Carolina State government
21 reorganization as of January 1, 1975, and specifically notwithstanding the provisions of
22 Chapter 864 of the 1971 North Carolina Session Laws [Chapter 143A], the Office of State
23 Personnel shall exercise all of its statutory powers in this Chapter independent of control by the
24 Secretary of Administration and shall be under the administration and supervision of a State
25 Personnel Director (hereinafter referred to as "the Director") appointed by the Governor and
26 subject to the supervision of the Commission for purposes of this Chapter. The salary of the
27 Director shall be fixed by the ~~General Assembly in the Current Operations Appropriations Act.~~
28 ~~Governor.~~ The Director shall serve at the pleasure of the Governor."

29 **SECTION 25.1.(d)** G.S. 140-5.15(c) reads as rewritten:

30 "(c) The State-funded portion of the salary of the Director shall be fixed by the ~~General~~
31 ~~Assembly in the Current Operations Appropriations Act.~~ Governor."

32 **SECTION 25.1.(e)** G.S. 147-33.76(c) reads as rewritten:

33 "(c) The salary of the State Chief Information Officer shall be set by the ~~General~~
34 ~~Assembly in the Current Operations Appropriations Act.~~ Governor. The State Chief Information
35 Officer shall receive longevity pay on the same basis as is provided to employees of the State
36 who are subject to the State Personnel Act."

37 **SECTION 25.1.(f)** Subsections (b) through (e) of this section apply to persons
38 appointed to the positions of Commissioner of Motor Vehicles, State Personnel Director,
39 Director of the North Carolina Museum of Art, and State Chief Information Officer on or after
40 January 1, 2013. Subsection (a) of this section does not apply to such persons.

41 **SECTION 25.1.(g)** Effective August 1, 2012, G.S. 143B-721 reads as rewritten:

42 "**§ 143B-721. Post-Release Supervision and Parole Commission – members; selection;**
43 **removal; chairman; compensation; quorum; services.**

44 (a) Effective August 1, 2005, the Post-Release Supervision and Parole Commission
45 shall consist of one full-time member and two half-time members. The three members shall be
46 appointed by the Governor from persons whose recognized ability, training, experience, and
47 character qualify them for service on the Commission. The terms of office of any members
48 serving on the Commission on June 30, 2005, shall expire on that date. The terms of office of
49 persons appointed by the Governor as members of the Commission shall be for four years or
50 until their successors are appointed and qualify. Any appointment to fill a vacancy on the
51 Commission created by the resignation, removal, death or disability of a member shall be for
52 the balance of the unexpired term only.

53 (a1) Effective August 1, 2012, both half-time commissioners shall begin serving as
54 full-time members of the Commission, and the Post-Release Supervision and Parole
55 Commission shall consist of three full-time members.

56 (a2) Effective February 1, 2013, an additional member shall be appointed by the
57 Governor to the Commission, and the Post-Release Supervision and Parole Commission shall
58 consist of four full-time members.

(b) All members of the Post-Release Supervision and Parole Commission appointed by the Governor shall possess the recognized ability, training, experience, and character to qualify each person to serve ably on the Commission.

(c) The Governor shall have the authority to remove any member of the Commission from office for misfeasance, malfeasance or nonfeasance, pursuant to the provisions of G.S. 143B-13. The Governor shall designate a member of the Commission to serve as chair of the Commission at the pleasure of the Governor.

(d) The granting, denying, revoking, or rescinding of parole, the authorization of work-release privileges to a prisoner, or any other matters of business coming before the Commission for consideration and action shall be decided by majority vote of the full Commission.

(e) The members of the Commission shall receive the salary fixed by the General Assembly in the Current Operations Appropriations Act and shall receive necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-6. Notwithstanding any other provision of law, the half-time members of the Commission shall not be subject to the provisions of G.S. 135-3(8)(c).

(f) All clerical and other services required by the Commission shall be supplied by the Secretary of the Department of Public Safety."

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 <u>\$142,623</u>
Associate Justice, Supreme Court	137,249 <u>138,896</u>
Chief Judge, Court of Appeals	135,061 <u>136,682</u>
Judge, Court of Appeals	131,531 <u>133,109</u>
Judge, Senior Regular Resident Superior Court	127,957 <u>129,492</u>
Judge, Superior Court	124,382 <u>125,875</u>
Chief Judge, District Court	112,946 <u>114,301</u>
Judge, District Court	109,372 <u>110,684</u>
District Attorney	119,305 <u>120,737</u>
Administrative Officer of the Courts	126,738 <u>128,259</u>
Assistant Administrative Officer of the Courts	115,763 <u>117,152</u>
Public Defender	119,305 <u>120,737</u>
Director of Indigent Defense Services	123,022 <u>124,498</u> ".

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

1 attorneys or assistant public defenders in that district do not exceed seventy-one thousand seven
 2 hundred ninety-seven dollars (\$71,797) and the minimum salary of any assistant district
 3 attorney or assistant public defender is at least thirty-seven thousand six hundred twenty-eight
 4 dollars (\$37,628), effective July 1, 2012.

5 **SECTION 25.1A.(e)** G.S. 7A-101(a) reads as rewritten:

6 "(a) The clerk of superior court is a full-time employee of the State and shall receive an
 7 annual salary, payable in equal monthly installments, based on the population of the county as
 8 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>

14 When a county changes from one population group to another, the salary of the clerk shall
 15 be changed, on July 1 of the fiscal year for which the change is reported, to the salary
 16 appropriate for the new population group, except that the salary of an incumbent clerk shall not
 17 be decreased by any change in population group during his continuance in office."

18 **SECTION 25.1A.(f)** G.S. 7A-102(c1) reads as rewritten:

19 "(c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time deputy
 20 clerk serving as head bookkeeper per county, shall be paid an annual salary subject to the
 21 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> ".

29 **SECTION 25.1A.(g)** G.S. 7A-171.1(a)(1) reads as rewritten:

30 "(1) A full-time magistrate shall be paid the annual salary indicated in the table
 31 set out in this subdivision. A full-time magistrate is a magistrate who is
 32 assigned to work an average of not less than 40 hours a week during the term
 33 of office. The Administrative Officer of the Courts shall designate whether a
 34 magistrate is full-time. Initial appointment shall be at the entry rate. A
 35 magistrate's salary shall increase to the next step every two years on the
 36 anniversary of the date the magistrate was originally appointed for increases
 37 to Steps 1 through 3, and every four years on the anniversary of the date the
 38 magistrate was originally appointed for increases to Steps 4 through 6.

39 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> ".

48 **SECTION 25.1A.(h)** G.S. 7A-171.1(a1)(1) reads as rewritten:

49 "(a1) Notwithstanding subsection (a) of this section, the following salary provisions apply
 50 to individuals who were serving as magistrates on June 30, 1994:

51 (1) The salaries of magistrates who on June 30, 1994, were paid at a salary level
 52 of less than five years of service under the table in effect that date shall be as
 53 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>

57 Upon completion of five years of service, those magistrates shall receive
 58 the salary set as the Entry Rate in the table in subsection (a)."
 59

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.

1 No full-time faculty member shall earn less than the minimum salary for his or her education
2 level.

3 The pro rata hourly rate of the minimum salary for each education level shall be used to
4 determine the minimum salary for part-time faculty members."

5 **SECTION 25.1C.(b)** For the 2012-2013 fiscal year, the Director of the Budget
6 shall transfer from the Reserve for Compensation Increases created in this act to the State
7 Board of Community Colleges funds sufficient to provide community college employees a
8 salary increase of one and two-tenths percent (1.2%), including funds for the employers'
9 retirement and social security contributions. These compensation funds may be used for any
10 one or more of the following: (i) merit pay increases, (ii) across-the-board increases, (iii)
11 recruitment bonuses, (iv) retention increases, (v) any other compensation increase, (vi) to offset
12 the management flexibility reduction, or (vii) employ personnel. Categories (i) through (v) shall
13 be pursuant to policies adopted by the State Board of Community Colleges. The State Board of
14 Community Colleges shall make a preliminary report on the use of these funds to the 2013
15 Regular Session of the General Assembly no later than March 1, 2013, and a final report on
16 September 1, 2013.

17 **UNIVERSITY OF NORTH CAROLINA SYSTEM**

18 **SECTION 25.1D.(a)** Section 29.7 of S.L. 2011-145 reads as rewritten:

19 **"UNIVERSITY OF NORTH CAROLINA SYSTEM**

20 **"SECTION 29.7.(a)** The annual salaries of all University of North Carolina EPA faculty,
21 EPA nonfaculty, SPA employees, and teachers employed by the North Carolina School of
22 Science and Math shall remain unchanged for the ~~2011-2013 fiscal biennium~~2011-2012 fiscal
23 year.

24 **"SECTION 29.7.(b)** The annual salaries of all employees of the University of North
25 Carolina Health Care System and the Medical Faculty Practice Plan at East Carolina University
26 shall remain unchanged for the ~~2011-2013 fiscal biennium~~2011-2012 fiscal year."

27 **SECTION 25.1D.(b)** For the 2012-2013 fiscal year, the Director of the Budget
28 shall transfer from the Reserve for Compensation Increases created in this act to the Board of
29 Governors of The University of North Carolina funds sufficient to provide employees who are
30 exempt from the State Personnel Act (EPA) a salary increase of one and two-tenths percent
31 (1.2%), including funds for the employers' retirement and social security contributions. These
32 compensation funds may be used to award compensation increases to EPA employees, pursuant
33 to policies adopted by the Board of Governors, including, but not limited to, any one or more of
34 the following: (i) merit pay increases, (ii) across-the-board increases, (iii) recruitment bonuses,
35 and (iv) retention increases. These compensation funds may also be used for one or more of the
36 following (i) to offset the management flexibility reduction, or (ii) employ personnel. The
37 Board of Governors shall make a preliminary report on the use of funds under this subsection to
38 the 2013 Regular Session of the General Assembly no later than March 1, 2013, and a final
39 report on September 1, 2013.

40 **SECTION 25.1D.(c)** For the 2012-2013 fiscal year, the Director of the Budget
41 shall transfer from the Reserve for Compensation Increases created in this act to the Board of
42 Governors of The University of North Carolina funds sufficient to provide to employees who
43 are subject to the State Personnel Act (SPA) a salary increase of one and two-tenths percent
44 (1.2%), including funds for the employers' retirement and social security contributions.

45 **MOST STATE EMPLOYEES**

46 **SECTION 25.1E.(a)** Section 29.9 of S.L. 2011-145 reads as rewritten:

47 **"MOST STATE EMPLOYEES**

48 **"SECTION 29.9.(a)** Effective for the ~~2011-2013 fiscal biennium~~2011-2012 fiscal year,
49 the salaries in effect June 30, 2011, of all permanent, full-time State employees whose salaries
50 are set in accordance with the State Personnel Act, shall remain unchanged.

51 **"SECTION 29.9.(b)** Effective for the ~~2011-2013 fiscal biennium~~2011-2012 fiscal year,
52 the compensation of permanent, full-time State officials and persons in exempt positions shall
53 remain unchanged.

54 **"SECTION 29.9.(c)** Effective for the ~~2011-2013 fiscal biennium~~2011-2012 fiscal year,
55 the salaries of permanent, part-time State employees shall remain unchanged.
56
57

1 "SECTION 29.9.(d) Effective for the ~~2011-2013 fiscal biennium~~, 2011-2012 fiscal year,
2 the compensation of temporary and permanent hourly State employees shall remain
3 unchanged."

4 SECTION 25.1E.(b) For the 2012-2013 fiscal year, the salaries in effect June 30,
5 2012, for the following employees shall be increased by one and two-tenths percent (1.2%),
6 effective July 1, 2012:

- 7 (1) Permanent full-time State officials and persons whose salaries are set in
8 accordance with the State Personnel Act.
- 9 (2) Permanent full-time State officials and persons in positions exempt from the
10 State Personnel Act.
- 11 (3) Permanent part-time State employees.

12 SECTION 25.1E.(c) For the 2012-2013 fiscal year, the rate of pay of temporary
13 State employees and permanent hourly State employees may be increased on an equitable basis
14 (i) subject to the availability of funds in the employing State agency, department, or institution
15 and (ii) within regular State Budget Act procedures consistent with this act.

16 SECTION 25.1E.(d) Section 29.10(b) of S.L. 2011-145 reads as rewritten:

17 "SECTION 29.10.(b) For the ~~2011-2013 fiscal biennium~~, 2011-2012 fiscal year, the
18 salaries of permanent, full-time employees who work a nine-, ten-, or eleven-month work year
19 schedule shall remain unchanged."
20

21 ALL STATE-SUPPORTED PERSONNEL/SALARY INCREASES

22 SECTION 25.1F.(a) The Director of the Budget shall transfer from the Reserve for
23 Compensation Increases in this act for fiscal year 2012-2013 all funds necessary for the salary
24 increases provided by this act, including funds for the employers' retirement and social security
25 contributions.

26 SECTION 25.1F.(b) Salaries and related benefits for positions that are funded
27 partially from the General Fund or Highway Fund and partially from sources other than the
28 General Fund or Highway Fund shall be increased from the General Fund or Highway Fund
29 appropriation only to the extent of the proportionate part of the salaries paid from the General
30 Fund or Highway Fund. Nothing in this act authorizes the transfer of funds between the
31 General Fund and the Highway Fund for salary increases.

32 SECTION 25.1F.(c) The fiscal year 2012-2013 salary increases provided in this
33 act are to be effective July 1, 2012, and do not apply to persons separated from State service
34 due to resignation, dismissal, reduction in force, death, or retirement or whose last workday is
35 prior to July 1, 2012.

36 SECTION 25.1F.(d) The granting of the salary increases under this act does not
37 affect the status of eligibility for salary increments for which employees may be eligible unless
38 otherwise required by this act.

39 SECTION 25.1F.(e) Payroll for employees on or after July 1, 2012, which
40 represent payment of services provided prior to these increases shall not be eligible for salary
41 increases provided for in this act. This subsection shall apply to all employees, subject to or
42 exempt from the State Personnel Act, paid from State funds, including public schools,
43 community colleges, and The University of North Carolina.

44 SECTION 25.1F.(f) Except as otherwise provided by this act, for the 2012-2013
45 fiscal year, permanent full-time State agency employees and State-funded public school
46 employees who work a nine-, 10-, or 11-month work year schedule shall receive the one and
47 two-tenths percent (1.2%) annual increase provided by this act.
48

49 SALARY ADJUSTMENTS FOR SPECIAL CIRCUMSTANCES ONLY/NO 50 AUTOMATIC INCREASES

51 SECTION 25.2. Section 29.8 of S.L. 2011-145, as amended by Section 59A of
52 S.L. 2011-391, reads as rewritten:

53 "SECTION 29.8.(a) The annual pay of all State employees for the ~~2011-2013 fiscal~~
54 ~~biennium~~ 2011-2012 fiscal year shall remain unchanged from that authorized on June 30, 2011,
55 or the last date in pay status during the 2010-2011 fiscal year, if earlier, except that an increase
56 may be allowed during the 2011-2012 fiscal year under the following special circumstances:

- 57 (1) For all State employees regardless of funding source, and for employees of
58 the North Carolina Community College System and local school boards who
59 are paid from State funds, salaries may be increased for reallocations or

1 promotions, in-range adjustments for job change, career progression
2 adjustments for demonstrated competencies, or any other adjustment related
3 to an increase in job duties or responsibilities, none of which are subject to
4 the salary freeze otherwise provided by this Part. All other salary increases
5 are prohibited.

6 (1a) For employees of the North Carolina Community College System,
7 notwithstanding subdivision (1) of this subsection, salaries may be increased
8 if the increase is funded from local funding sources.

9 (2) For The University of North Carolina, (i) faculty using funds from the
10 Faculty Recruiting and Retention Fund, the Distinguished Professors
11 Endowment Fund, or the University Cancer Research Fund in the case of
12 faculty involved in cancer research supported by that fund and (ii) faculty,
13 nonfaculty, and other employee adjustments, including retention
14 adjustments, funded from non-State funding sources.

15 (3) For employees of the judicial branch, for local supplementation as
16 authorized by G.S. 7A-300.1.

17 The cumulative salary adjustment allowed under this subsection for the 2011-2012 fiscal year
18 may exceed ten percent (10%) of annual salary only if the adjustment is approved in advance
19 by the Office of State Budget and Management, The University of North Carolina Board of
20 Governors, the Board of the North Carolina Community College System, the Legislative
21 Services Commission, the local board of education, or other authorized body as appropriate.

22 "**SECTION 29.8.(b)** The automatic salary step increases for assistant and deputy clerks of
23 superior court and magistrates are suspended for the 2011-2013 fiscal biennium.

24 "**SECTION 29.8.(c)** The salary increase provisions of G.S. 20-187.3 are suspended for the
25 2011-2013 fiscal biennium.

26 "**SECTION 29.8.(d)** Notwithstanding G.S. 53-96.1, ~~and except as provided by subdivision~~
27 ~~(1) of subsection (a) of this section,~~ employees of the Office of the Commissioner of Banks
28 shall not be awarded compensation increases or bonuses during the 2011-2013 fiscal biennium.
29 Employees of the Office of the Commissioner of Banks shall receive an across-the-board salary
30 increase of one and two-tenths percent (1.2%) for the 2012-2013 fiscal year, as provided in
31 section 25.1E of The Current Operations and Capital Improvements Appropriations Act of
32 2012.

33 "**SECTION 29.8.(e)** Employees of the Lottery Commission shall not receive compensation
34 bonuses during the 2011-2013 fiscal biennium. Employees of the Lottery Commission shall
35 receive an across-the-board salary increase of one and two-tenths percent (1.2%) for the
36 2012-2013 fiscal year, as provided in section 25.1E of The Current Operations and Capital
37 Improvements Appropriations Act of 2012.

38 "~~**SECTION 29.8.(f)** No employee of any other State agency or constituent institution of~~
39 ~~The University of North Carolina, excluding employees of the University of North Carolina~~
40 ~~Health Care System and employees participating in a constituent institution's medical faculty~~
41 ~~practice plan, shall receive compensation bonuses."~~

42

43 **REPEAL OF PROVISIONS RELATED TO COMPENSATION ADJUSTMENT AND**

44 **PERFORMANCE PAY RESERVE**

45 **SECTION 25.2A.** Section 29.20A of S.L. 2011-145 is repealed.

46

47 **MONITOR MOST SALARY INCREASES**

48 **SECTION 25.2B.** Section 29.19 of S.L. 2011-145 reads as rewritten:

49 "**SECTION 29.19.(a)** The Office of State Budget and Management and the Office of State
50 Personnel shall monitor jointly ~~the compliance of salary increases awarded by the following~~
51 ~~units of government with the provisions of Section 29.8 of this act and shall submit quarterly~~
52 ~~reports of their monitoring activities to the President Pro Tempore of the Senate, the Speaker of~~
53 ~~the House of Representatives, and the Fiscal Research Division: (i) State agencies,~~
54 ~~departments, and institutions, including authorities, boards, and commissions; (ii) the judicial~~
55 ~~branch; and (iii) The University of North Carolina and its constituent institutions.~~

56 The quarterly reports required by this section shall include the following information:

57 (1) For agencies reporting through the BEACON HR/Payroll system, (i) a
58 breakdown by action type ~~(including~~ (including, but not limited to,
59 promotion, reallocation, career progression, salary adjustment, range

1 revision, equity and any similar actions increasing employee pay) of the
 2 number and annual amount of those increases and (ii) a breakdown by action
 3 reason (including in-range higher level, acting pay, trainee adjustment, and
 4 other similar action reasons) of the number and annual amount of those
 5 action types coded as salary adjustment.

6 (2) For The University of North Carolina and its constituent institutions, a
 7 breakdown of the number and annual amount of those increases categorized
 8 by the University as promotions, changes in job duties or responsibilities,
 9 Distinguished Professorships, retention pay, career progression, and any
 10 other similar actions increasing employee pay.

11 (3) ~~A summary of actions taken by the Office of State Budget and Management
 12 and the Office of State Personnel with respect to unauthorized salary
 13 increases.~~

14 **"SECTION 29.19.(b)** The Legislative Services Officer shall report quarterly to the
 15 President Pro Tempore of the Senate and the Speaker of the House of Representatives on
 16 compliance with this act."
 17

18 **REPEAL COMPREHENSIVE COMPENSATION SYSTEM**

19 **SECTION 25.2C.(a)** The catch line of G.S. 126-7 reads as rewritten:

20 **"§ 126-7. ~~Compensation of State employees.~~Annual Compensation Survey."**

21 **SECTION 25.2C.(b)** G.S. 126-7(a), (a2), (b1), (c), and (e) are repealed.

22 **SECTION 25.2C.(c)** G.S. 126-7(b) reads as rewritten:

23 "(b) To guide the Governor and the General Assembly in making ~~appropriations to fund~~
 24 ~~the Comprehensive Compensation System,~~ decisions regarding the compensation of State
 25 employees, the State Personnel Commission shall conduct annual compensation surveys. The
 26 Commission shall present the results of the compensation survey to the Appropriations
 27 Committees of the House and Senate no later than two weeks after the convening of the
 28 legislature in odd years and May 1st of even years."

29 **SECTION 25.2C.(d)** G.S. 20-187.3(a) reads as rewritten:

30 "(a) The Secretary of Public Safety shall not make or permit to be made any order, rule,
 31 or regulation requiring the issuance of any minimum number of traffic citations, or ticket
 32 quotas, by any member or members of the State Highway Patrol. Pay and promotions of
 33 members of the Highway Patrol shall be based on their overall job performance and not on the
 34 basis of the volume of citations issued or arrests made. ~~The provisions of G.S. 126-7 shall not~~
 35 ~~apply to members of the State Highway Patrol.~~ Members of the Highway Patrol shall,
 36 ~~however,~~ shall be subject to salary classes, ranges and longevity pay for service as are
 37 applicable to other State employees generally. Beginning July 1, 1985, and annually thereafter,
 38 each member of the Highway Patrol shall be granted a salary increase in an amount
 39 corresponding to the increments between steps within the salary range established for the class
 40 to which the member's position is assigned by the State Personnel Commission, not to exceed
 41 the maximum of each applicable salary range."
 42

43 **COMPREHENSIVE REVIEW FOR REFORM OF PUBLIC EMPLOYEE** 44 **COMPENSATION PLANS/RECOMMENDATIONS FOR LEGISLATION BY** 45 **MARCH 1, 2013**

46 **SECTION 25.2D.** Section 29.20 of S.L. 2011-145 reads as rewritten:

47 **"SECTION 29.20.(a)** It is the intent of the General Assembly to create and implement a
 48 modernized, fair, and fully functional performance-based compensation system for employees
 49 of State agencies, departments, ~~institutions, and institutions and for employees of The~~
 50 ~~University of North Carolina System, the North Carolina Community College System, and~~
 51 ~~local education agencies.~~ System who are subject to the State Personnel Act. To that end, the
 52 Legislative Services Commission, jointly through the Fiscal Research and Program Evaluation
 53 Divisions, is directed to commission a review and study of the current compensation plans of
 54 State agencies, departments, ~~institutions, and institutions and employees of The~~ University of
 55 ~~North Carolina System, the North Carolina Community College System, and local education~~
 56 ~~agencies.~~ System who are subject to the State Personnel Act (government sectors). The
 57 Legislative Services Commission may use a Request for Information process or a Request for
 58 Proposals process to contract with a qualified consulting firm to perform this review and study.
 59 The study, at minimum, shall include all of the following:

- 1 (1) A labor market analysis of pay, fringe benefits, classification, and banding
2 plans of government sector employees to determine whether current
3 employees are compensated appropriately relative to market rates for similar
4 positions as compared to (i) other North Carolina public employees, (ii)
5 similar positions and employees in other states, and (iii) where applicable,
6 employees in private industry.
- 7 (2) An analysis of current performance-based compensation plans in use by the
8 North Carolina Banking ~~Commission, Commission and~~ the University of
9 North Carolina Health Care System, ~~and the performance-based~~
10 ~~compensation system proposed by Charlotte/Mecklenburg County~~
11 ~~Schools System.~~ This analysis should include an assessment of the
12 effectiveness of these performance-based plans and should include
13 identification of best practices.
- 14 (3) An evaluation of current longevity pay as applicable to most government
15 sector employees and recommendations as to whether longevity pay should
16 be continued for new hires.
- 17 (4) An evaluation of current laws and policies related to "career status" for
18 employees subject to the State Personnel Act ~~and tenure for public school~~
19 ~~teachers and university professors. For public school teachers, the evaluation~~
20 ~~of tenure shall include its relationship with student performance, if any. Act.~~
21 This evaluation should also include recommendations as to whether these
22 laws and policies should be continued or modified based upon human
23 resource best practices.
- 24 (5) ~~An evaluation of salary supplements for public school employees paid on~~
25 ~~account of master's degrees, attainment of other advanced degrees, and~~
26 ~~national board certification, including the relationship to student~~
27 ~~performance, if any. This evaluation should also include recommendations~~
28 ~~as to whether these salary supplements should be continued or modified~~
29 ~~based upon the effect on student performance, if any, and human resource~~
30 ~~best practices.~~
- 31 (6) An evaluation of the State Personnel Act, including recommendations as to
32 whether these laws and policies should be continued or modified based upon
33 human resource best practices.
- 34 (7) An analysis of the effect of in-State regional variables on employee
35 compensation and recommendations as to how those variables should be
36 addressed in the future.
- 37 (8) Recommendations of how to evaluate and compare the value of employee
38 fringe benefits.
- 39 (9) Recommendations, timetable, and design of a comprehensive
40 performance-based compensation plan across all government sectors for
41 implementation by the General Assembly. Recommendations must include
42 the design of an effective employee performance evaluation system,
43 including the identification of effective employee performance measures and
44 information systems (including estimated costs) to track and monitor
45 employee performance.
- 46 (10) Training recommendations for supervisors and managers regarding
47 employee productivity and performance evaluation.
- 48 (11) Recommendations to assure equity of compensation among public
49 employees across government sectors.
- 50 (12) Feasibility of a consensus forecasting group to make annual
51 recommendations for compensation policy across all government sectors.
52 These recommendations should include how to establish and maintain
53 priorities for General Fund appropriations necessary to fund the
54 performance-based compensation system while remaining affordable for the
55 State and its taxpayers.

56 **"SECTION 29.20.(b)** In the event that the Legislative Services Commission contracts with
57 a qualified consulting firm to perform the review and study, the consultant shall report its
58 progress to the Fiscal Research and Program Evaluation Divisions every 90 days.

1 "SECTION 29.20.(c) By ~~May 1, 2012, March 1, 2013~~, the Fiscal Research and Program
2 Evaluation Divisions, or at their direction by the consultant hired to perform the review and
3 study, shall report all findings and any other final results of the study, including
4 recommendations and legislative proposals, to the ~~2012 Regular Session of the 2011~~2013
5 General Assembly.

6 "SECTION 29.20.(d) All State agencies, departments, ~~institutions, and institutions, and~~
7 The University of North Carolina System, ~~the North Carolina Community College System, and~~
8 ~~local education agencies System~~ shall provide any information, data, or documents within their
9 possession, ascertainable from their records, or otherwise available to them to the Fiscal
10 Research and Program Evaluation Divisions and/or the consultant necessary to complete this
11 review and study.

12 "SECTION 29.20.(e) The State Personnel Director, the State Budget Director, the State
13 Controller, and the State Treasurer shall dedicate and identify staff for technical assistance, as
14 needed, to aid in the reviews required by this section."
15

16 EXEMPT POSITIONS

17 SECTION 25.2E.(a) G.S. 126-5(d) reads as rewritten:

18 "(d) (1) Exempt Positions in Cabinet Department. – ~~The Subject to the provisions of~~
19 ~~this Chapter, which is known as the State Personnel Act, the Governor may~~
20 ~~designate a total of 1001,000 exempt policymaking positions throughout the~~
21 ~~following departments:~~

- 22 a. Department of Administration;
- 23 b. Department of Commerce;
- 24 ~~e. Division of Adult Correction of the Department of Public Safety;~~
- 25 d. Department of Public Safety;
- 26 e. Department of Cultural Resources;
- 27 f. Department of Health and Human Services;
- 28 g. Department of Environment and Natural Resources;
- 29 h. Department of Revenue;
- 30 i. Department of ~~Transportation; and Transportation.~~
- 31 j. ~~Division of Juvenile Justice of the Department of Public Safety.~~

32 ~~The Governor may designate exempt managerial positions in a number up to~~
33 ~~one percent (1%) of the total number of full-time positions in each cabinet~~
34 ~~department listed above in this sub-subdivision, not to exceed 30 positions in~~
35 ~~each department. Notwithstanding the provisions of this subdivision, or the~~
36 ~~other requirements of this subsection, the Governor may at any time increase~~
37 ~~by five the number of exempt policymaking positions at the Department of~~
38 ~~Health and Human Services, but at no time shall the total number of exempt~~
39 ~~policymaking positions exceed 105. The Governor shall notify the General~~
40 ~~Assembly and the State Personnel Director of the additional positions~~
41 ~~designated hereunder.~~

42 (2) Exempt Positions in Council of State Departments and Offices. – The
43 Secretary of State, the Auditor, the Treasurer, the Attorney General, the
44 Commissioner of Agriculture, the Commissioner of Insurance, and the Labor
45 Commissioner may designate exempt positions. The State Board of
46 Education may designate exempt positions in the Department of Public
47 Instruction. The number of exempt policymaking positions in each
48 department headed by an elected department head listed above in this
49 sub-subdivision shall be limited to 20 exempt policymaking positions or one
50 percent (1%) of the total number of full-time positions in the department,
51 whichever is greater. The number of exempt managerial positions shall be
52 limited to 20 positions or one percent (1%) of the total number of full-time
53 positions in the department, whichever is greater.

54 (2a) Designation of Additional Positions. – The Governor, elected department
55 head, or State Board of Education may request that additional positions be
56 designated as exempt. The request shall be made by sending a list of exempt
57 positions that exceed the limit imposed by this subsection to the Speaker of
58 the North Carolina House of Representatives and the President of the North
59 Carolina Senate. A copy of the list also shall be sent to the State Personnel

1 Director. The General Assembly may authorize all, or part of, the additional
 2 positions to be designated as exempt positions. If the General Assembly is in
 3 session when the list is submitted and does not act within 30 days after the
 4 list is submitted, the list shall be deemed approved by the General Assembly,
 5 and the positions shall be designated as exempt positions. If the General
 6 Assembly is not in session when the list is submitted, the 30-day period shall
 7 not begin to run until the next date that the General Assembly convenes or
 8 reconvenes, other than for a special session called for a specific purpose not
 9 involving the approval of the list of additional positions to be designated as
 10 exempt positions; the policymaking positions shall not be designated as
 11 exempt during the interim.

12 (3) Letter. – These positions shall be designated in a letter to the State Personnel
 13 Director, the Speaker of the House of Representatives, and the President of
 14 the Senate by ~~May 1~~ July 1 of the year in which the oath of office is
 15 administered to each Governor unless the provisions of subsection (d)(4)
 16 apply.

17 (4) Vacancies. – In the event of a vacancy in the Office of Governor or in the
 18 office of a member of the Council of State, the person who succeeds to or is
 19 appointed or elected to fill the unexpired term shall make such designations
 20 in a letter to the State Personnel Director, the Speaker of the House of
 21 Representatives, and the President of the Senate within ~~120~~ 180 days after the
 22 oath of office is administered to that person. In the event of a vacancy in the
 23 Office of Governor, the State Board of Education shall make these
 24 designations in a letter to the State Personnel Director, the Speaker of the
 25 House of Representatives, and the President of the Senate within ~~120~~ 180
 26 days after the oath of office is administered to the Governor.

27 (5) Creation, Transfer, or Reorganization. – The Governor, elected department
 28 head, or State Board of Education may designate as exempt a position that is
 29 created or transferred to a different department, or is located in a department
 30 in which reorganization has occurred, after ~~May 1~~ July 1 of the year in
 31 which the oath of office is administered to the Governor. The designation
 32 must be made in a letter to the State Personnel Director, the Speaker of the
 33 North Carolina House of Representatives, and the President of the North
 34 Carolina Senate within ~~120~~ 180 days after such position is created,
 35 transferred, or in which reorganization has occurred.

36 (6) Reversal. – Subsequent to the designation of a position as an exempt
 37 position as hereinabove provided, the status of the position may be reversed
 38 and made subject to the provisions of this Chapter by the Governor, by an
 39 elected department head, or by the State Board of Education in a letter to the
 40 State Personnel Director, the Speaker of the North Carolina House of
 41 Representatives, and the President of the North Carolina Senate.

42 (7) Hearing Officers. – Except as otherwise specifically provided by this
 43 section, no employee, by whatever title, whose primary duties include the
 44 power to conduct hearings, take evidence, and enter a decision based on
 45 findings of fact and conclusions of law based on statutes and legal
 46 precedents shall be designated as exempt. This subdivision shall apply
 47 beginning July 1, 1985, and no list submitted after that date shall designate
 48 as exempt any employee described in this subdivision."

49 **SECTION 25.2E.(b)** This section becomes effective January 1, 2013.

51 UNIVERSITY FACULTY RECRUITING AND RETENTION FUND

52 **SECTION 25.3.** The Faculty Recruiting and Retention Fund under the Office of
 53 the President of The University of North Carolina is reestablished for the 2012-2013 fiscal
 54 year. Allocations from the fund shall be made for salary increases at the discretion of the
 55 President of The University of North Carolina only for the purpose of recruiting and retaining
 56 faculty members as necessary at constituent institutions.

58 TEACHER SALARY SCHEDULES

59 **SECTION 25.6.(a)** Section 3(a) of S.L. 2012-13 is repealed.

1 **SECTION 25.6.(b)** The following monthly salary schedules shall apply for the
 2 2012-2013 fiscal year to certified personnel of the public schools who are classified as teachers.
 3 The schedules contain 36 steps, with each step corresponding to one year of teaching
 4 experience. Public school employees paid according to this salary schedule and receiving
 5 NBPTS certification or obtaining a master's degree shall not be prohibited from receiving the
 6 appropriate increase in salary. Provided, however, teachers employed during the 2011-2012
 7 school year who did not work the required number of months to acquire an additional year of
 8 experience shall not receive a decrease in salary as otherwise would be required by the salary
 9 schedule below.

2012-2013 Monthly Salary Schedule

"A" Teachers		
Years of Experience	"A" Teachers	NBPTS Certification
0-2	\$3,080	N/A
3-4	\$3,080	\$3,450
5	\$3,122	\$3,497
6	\$3,167	\$3,547
7	\$3,303	\$3,699
8	\$3,445	\$3,858
9	\$3,580	\$4,010
10	\$3,711	\$4,156
11	\$3,816	\$4,274
12	\$3,865	\$4,329
13	\$3,914	\$4,384
14	\$3,965	\$4,441
15	\$4,015	\$4,497
16	\$4,066	\$4,554
17	\$4,118	\$4,612
18	\$4,171	\$4,672
19	\$4,226	\$4,733
20	\$4,282	\$4,796
21	\$4,337	\$4,857
22	\$4,397	\$4,925
23	\$4,456	\$4,991
24	\$4,515	\$5,057
25	\$4,577	\$5,126
26	\$4,639	\$5,196
27	\$4,706	\$5,271
28	\$4,771	\$5,344
29	\$4,836	\$5,416
30	\$4,903	\$5,491
31	\$4,972	\$5,569
32	\$5,044	\$5,649
33	\$5,116	\$5,730
34	\$5,215	\$5,841
35+	\$5,318	\$5,956

2012-2013 Monthly Salary Schedule

"M" Teachers		
Years of Experience	"M" Teachers	NBPTS Certification
0-2	\$3,388	N/A
3-4	\$3,388	\$3,795
5	\$3,434	\$3,846
6	\$3,484	\$3,902
7	\$3,633	\$4,069
8	\$3,790	\$4,245
9	\$3,938	\$4,411
10	\$4,082	\$4,572
11	\$4,198	\$4,702

1	12	\$4,252	\$4,762
2	13	\$4,305	\$4,822
3	14	\$4,362	\$4,885
4	15	\$4,417	\$4,947
5	16	\$4,473	\$5,010
6	17	\$4,530	\$5,074
7	18	\$4,588	\$5,139
8	19	\$4,649	\$5,207
9	20	\$4,710	\$5,275
10	21	\$4,771	\$5,344
11	22	\$4,837	\$5,417
12	23	\$4,902	\$5,490
13	24	\$4,967	\$5,563
14	25	\$5,035	\$5,639
15	26	\$5,103	\$5,715
16	27	\$5,177	\$5,798
17	28	\$5,248	\$5,878
18	29	\$5,320	\$5,958
19	30	\$5,393	\$6,040
20	31	\$5,469	\$6,125
21	32	\$5,548	\$6,214
22	33	\$5,628	\$6,303
23	34	\$5,737	\$6,425
24	35+	\$5,850	\$6,552

SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE

SECTION 25.7.(a) Section 4(a) of S.L. 2012-13 is repealed.

SECTION 25.7.(b) The following base salary schedule for school-based administrators shall apply only to principals and assistant principals. This base salary schedule shall apply for the 2012-2013 fiscal year, commencing July 1, 2012. Provided, however, school-based administrators (i) employed during the 2011-2012 school year who did not work the required number of months to acquire an additional year of experience and (ii) employed during the 2012-2013 school year in the same classification shall not receive a decrease in salary as otherwise would be required by the salary schedule below.

2012-2013 Principal and Assistant Principal Salary Schedules
Classification

Years of Exp	Assistant Principal	Prin I (0-10)	Prin II (11-21)	Prin III (22-32)	Prin IV (33-43)
40	0-8	\$3,828	-	-	-
41	9	\$3,977	-	-	-
42	10	\$4,123	-	-	-
43	11	\$4,240	-	-	-
44	12	\$4,295	\$4,295	-	-
45	13	\$4,348	\$4,348	-	-
46	14	\$4,406	\$4,406	\$4,461	-
47	15	\$4,461	\$4,461	\$4,518	-
48	16	\$4,518	\$4,518	\$4,575	\$4,634
49	17	\$4,575	\$4,575	\$4,634	\$4,695
50	18	\$4,634	\$4,634	\$4,695	\$4,757
51	19	\$4,695	\$4,695	\$4,757	\$4,819
52	20	\$4,757	\$4,757	\$4,819	\$4,885
53	21	\$4,819	\$4,819	\$4,885	\$4,951
54	22	\$4,885	\$4,885	\$4,951	\$5,017
55	23	\$4,951	\$4,951	\$5,017	\$5,085
56	24	\$5,017	\$5,017	\$5,085	\$5,154
57	25	\$5,085	\$5,085	\$5,154	\$5,229
58	26	\$5,154	\$5,154	\$5,229	\$5,300
59	27	\$5,229	\$5,229	\$5,300	\$5,373

1	28	\$5,300	\$5,300	\$5,373	\$5,447	\$5,524
2	29	\$5,373	\$5,373	\$5,447	\$5,524	\$5,603
3	30	\$5,447	\$5,447	\$5,524	\$5,603	\$5,684
4	31	\$5,524	\$5,524	\$5,603	\$5,684	\$5,794
5	32	\$5,603	\$5,603	\$5,684	\$5,794	\$5,909
6	33	\$5,684	\$5,684	\$5,794	\$5,909	\$6,027
7	34	\$5,794	\$5,794	\$5,909	\$6,027	\$6,148
8	35	\$5,909	\$5,909	\$6,027	\$6,148	\$6,271
9	36	-	\$6,027	\$6,148	\$6,271	\$6,396
10	37	-	-	\$6,271	\$6,396	\$6,524
11	38	-	-	\$6,396	\$6,524	\$6,654
12	39	-	-	-	\$6,654	\$6,787
13	40	-	-	-	\$6,787	\$6,923
14	41	-	-	-	-	\$7,061

2012-2013 Principal and Assistant Principal Salary Schedules
Classification

Years of Exp	Prin V (44-54)	Prin VI (55-65)	Prin VII (66-100)	Prin VIII (101+)
0-18	\$4,885	-	-	-
19	\$4,951	-	-	-
20	\$5,017	\$5,085	-	-
21	\$5,085	\$5,154	\$5,300	-
22	\$5,154	\$5,229	\$5,373	\$5,447
23	\$5,229	\$5,300	\$5,447	\$5,524
24	\$5,300	\$5,373	\$5,524	\$5,603
25	\$5,373	\$5,447	\$5,603	\$5,684
26	\$5,447	\$5,524	\$5,684	\$5,794
27	\$5,524	\$5,603	\$5,794	\$5,909
28	\$5,603	\$5,684	\$5,909	\$6,027
29	\$5,684	\$5,794	\$6,027	\$6,148
30	\$5,794	\$5,909	\$6,148	\$6,271
31	\$5,909	\$6,027	\$6,271	\$6,396
32	\$6,027	\$6,148	\$6,396	\$6,524
33	\$6,148	\$6,271	\$6,524	\$6,654
34	\$6,271	\$6,396	\$6,654	\$6,787
35	\$6,396	\$6,524	\$6,787	\$6,923
36	\$6,524	\$6,654	\$6,923	\$7,061
37	\$6,654	\$6,787	\$7,061	\$7,202
38	\$6,787	\$6,923	\$7,202	\$7,346
39	\$6,923	\$7,061	\$7,346	\$7,493
40	\$7,061	\$7,202	\$7,493	\$7,643
41	\$7,202	\$7,346	\$7,643	\$7,796
42	\$7,346	\$7,493	\$7,796	\$7,952
43	-	\$7,643	\$7,952	\$8,111
44	-	\$7,796	\$8,111	\$8,273
45+	-	-	\$8,273	\$8,438

CENTRAL OFFICE SALARIES

SECTION 25.7C.(a) Section 29.14 of S.L. 2011-145 is repealed.

SECTION 25.7C.(b) The monthly salary ranges that follow apply to assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers for the 2012-2013 fiscal year, beginning July 1, 2012.

School Administrator I	\$3,349	\$6,281
School Administrator II	\$3,550	\$6,662
School Administrator III	\$3,769	\$7,068
School Administrator IV	\$3,920	\$7,349
School Administrator V	\$4,078	\$7,647
School Administrator VI	\$4,326	\$8,109

1 School Administrator VII \$4,500 \$8,436

2 The local board of education shall determine the appropriate category and
3 placement for each assistant superintendent, associate superintendent, director/coordinator,
4 supervisor, or finance officer within the salary ranges and within funds appropriated by the
5 General Assembly for central office administrators and superintendents. The category in which
6 an employee is placed shall be included in the contract of any employee.

7 **SECTION 25.7C.(c)** The monthly salary ranges that follow apply to public school
8 superintendents for the 2012-2013 fiscal year, beginning July 1, 2012.

9 Superintendent I \$4,777 \$8,949

10 Superintendent II \$5,071 \$9,490

11 Superintendent III \$5,380 \$10,067

12 Superintendent IV \$5,710 \$10,679

13 Superintendent V \$6,060 \$11,330

14 The local board of education shall determine the appropriate category and
15 placement for the superintendent based on the average daily membership of the local school
16 administrative unit and within funds appropriated by the General Assembly for central office
17 administrators and superintendents.

18 **SECTION 25.7C.(d)** Longevity pay for superintendents, assistant superintendents,
19 associate superintendents, directors/coordinators, supervisors, and finance officers shall be as
20 provided for State employees under the State Personnel Act.

21 **SECTION 25.7C.(e)** Superintendents, assistant superintendents, associate
22 superintendents, directors/coordinators, supervisors, and finance officers with certification
23 based on academic preparation at the six-year degree level shall receive a salary supplement of
24 one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided
25 pursuant to this section. Superintendents, assistant superintendents, associate superintendents,
26 directors/coordinators, supervisors, and finance officers with certification based on academic
27 preparation at the doctoral degree level shall receive a salary supplement of two hundred
28 fifty-three dollars (\$253.00) per month in addition to the compensation provided for under this
29 section.

30 **SECTION 25.7C.(f)** The State Board of Education shall not permit local school
31 administrative units to transfer State funds from other funding categories for salaries for public
32 school central office administrators.

33 **SECTION 25.7C.(g)** The salaries of all permanent full-time personnel paid from
34 the Central Office Allotment shall be increased by one and two-tenths percent (1.2%),
35 commencing July 1, 2012. The State Board of Education shall allocate these funds to local
36 school administrative units. The local boards of education shall establish guidelines for
37 providing salary increases to these personnel.

38 **NONCERTIFIED PERSONNEL SALARIES**

39 **SECTION 25.7D.(a)** Section 29.15 of S.L. 2011-145 is repealed.

40 **SECTION 25.7D.(b)** The annual salary increase for permanent, full-time
41 noncertified public school employees whose salaries are supported from the State's General
42 Fund shall be one and two-tenths percent (1.2%), commencing July 1, 2012.

43 **SECTION 25.7D.(c)** Local boards of education shall increase the rates of pay for
44 such employees who were employed for all or part of fiscal year 2011-2012 and who continue
45 their employment for fiscal year 2012-2013 by providing an annual salary increase for
46 employees of one and two-tenths percent (1.2%).

47 For part-time employees, the pay increase shall be pro rata based on the number of
48 hours worked.

49 **SECTION 25.7D.(d)** The State Board of Education may adopt salary ranges for
50 noncertified personnel to support increases of one and two-tenths percent (1.2%) for the
51 2012-2013 fiscal year.

52 **STATE AGENCY TEACHERS' COMPENSATION**

53 **SECTION 25.7E.** Funds in the Reserve for Compensation Increases and Personnel
54 Flexibility shall be used to increase annual salaries, by one and two-tenths percent (1.2%), for
55 employees of schools operated by the Department of Public Instruction, the Department of
56 Health and Human Services, and the Department of Public Safety, who are paid on the Teacher
57 Salary Schedule or the School-Based Administrator Salary Schedule.

SALARY-RELATED CONTRIBUTIONS

SECTION 25.10. Section 29.22(d) of S.L. 2011-145 reads as rewritten:

"**SECTION 29.22.(d)** Effective July 1, 2012, the State's employer contribution rates budgeted for retirement and related benefits as percentage of covered salaries for the 2012-2013 fiscal year are: (i) ~~fourteen and thirty-one hundredths percent (14.31%)~~fourteen and twenty-three hundredths percent (14.23%) – Teachers and State Employees; (ii) ~~nineteen and thirty-one hundredths percent (19.31%)~~nineteen and twenty-three hundredths percent (19.23%) – State Law Enforcement Officers; (iii) ~~twelve and sixty-six hundredths percent (12.66%)~~twelve and fifty-eight hundredths percent (12.58%) – University Employees' Optional Retirement System; (iv) ~~twelve and sixty-six hundredths percent (12.66%)~~twelve and fifty-eight hundredths percent (12.58%) – Community College Optional Retirement Program; (v) ~~thirty-one and seventy hundredths percent (31.70%)~~thirty-one and eighty-five hundredths percent (31.85%) – Consolidated Judicial Retirement System; and (vi) five and thirty hundredths percent (5.30%) – Legislative Retirement System. Each of the foregoing contribution rates includes five and thirty hundredths percent (5.30%) for hospital and medical benefits. The rate for Teachers and State Employees, State Law Enforcement Officers, Community College Optional Retirement Program, and for the University Employees' Optional Retirement Program includes ~~fifty-two hundredths percent (0.52%)~~forty-four hundredths percent (0.44%) for the Disability Income Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include sixteen hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental Retirement Income."

OPTIONAL RETIREMENT SYSTEM/FORFEITURE FUNDS

SECTION 25.11. G.S. 135-5.1(b)(5) reads as rewritten:

"(5) If any participant in the Optional Retirement Program having less than five years of total membership service under any combination of the Teachers' and State Employees' Retirement System, the Local Governmental Employees' Retirement System, the Consolidated Judicial Retirement System, or the Optional Retirement Program leaves the employ of The University of North Carolina and either retires or commences employment with an employer not having a retirement program with the same company underwriting the participant's annuity contract, regardless of whether the annuity contract is held by the participant, a trust, or the Retirement System, the participant's interest in the Optional Retirement Program attributable to contributions of The University of North Carolina shall be ~~forfeited and shall either (i) be refunded to The University of North Carolina and forthwith paid by it to the Retirement System and credited to the pension accumulation fund or (ii) be paid directly to the Retirement System and credited to the pension accumulation fund.~~forfeited. Consistent with Section 401(a) of the Internal Revenue Code, no part of the corpus or income of the Optional Retirement Program, or any trust established under that Program, may be (within the taxable year or thereafter) used for purposes other than for the exclusive benefit of participants and their beneficiaries, except that contributions made under a good faith mistake of fact may be returned, consistent with the rules adopted by the University."

EXPAND OPTIONAL RETIREMENT PROGRAM FOR UNIVERSITY OF NORTH CAROLINA SYSTEM

SECTION 25.12. G.S. 135-5.1(a) reads as rewritten:

"(a) An Optional Retirement Program provided for in this section is authorized and established and shall be implemented by the Board of Governors of The University of North Carolina. The Optional Retirement Program shall be underwritten by the purchase of annuity contracts, which may be both fixed and variable contracts or a combination thereof, or financed through the establishment of a trust, for the benefit of participants in the Program. Participation in the Optional Retirement Program shall be limited to University personnel who are eligible for membership in the Teachers' and State Employees' Retirement Program and who are:

- (1) Administrators and faculty of The University of North Carolina with the rank of instructor or above;
- (2) The President and employees of The University of North Carolina who are appointed by the Board of Governors on recommendation of the President pursuant to G.S. 116-11(4), 116-11(5), and 116-14 or who are appointed by the Board of Trustees of a constituent institution of The University of North Carolina upon the recommendation of the Chancellor pursuant to G.S. 116-40.22(b);
- (3) Nonfaculty instructional and research staff who are exempt from the State Personnel Act, as defined by the provisions of G.S. 126-5(c1)(8), and the faculty of the North Carolina School of Science and Mathematics; and
- (4) Field faculty of the Cooperative Agriculture Extension Service, and tenure track faculty in North Carolina State University agriculture research programs who are exempt from the State Personnel Act and who are eligible for membership in the Teachers' and State Employees' Retirement System pursuant to G.S. 135-3(1), who in any of the cases described in this subsection (i) had been members of the Optional Retirement Program under the provisions of Chapter 338, Session Laws of 1971, immediately prior to July 1, 1985, or (ii) have sought membership as required in subsection (b), below. Under the Optional Retirement Program, the State and the participant shall contribute, to the extent authorized or required, toward the purchase of such contracts or deposited in such trust on the participant's behalf.
- (5) Employees of The University of North Carolina Health Care System, subject to rules for eligibility and participation as may be adopted by the Board of Governors in the Optional Retirement Program plan document.
- (6) Employees hired on or after January 1, 2013."

PROVIDE COST-OF-LIVING INCREASES FOR RETIREES OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE JUDICIAL RETIREMENT SYSTEM, AND THE LEGISLATIVE RETIREMENT SYSTEM

SECTION 25.13.(a) G.S. 135-5 is amended by adding a new subsection to read:

"(sss) From and after July 1, 2012, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2011, shall be increased by one percent (1%) of the allowance payable on June 1, 2012, in accordance with G.S. 135-5(o). Furthermore, from and after July 1, 2012, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2011, but before June 30, 2012, shall be increased by a prorated amount of one percent (1%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 2011, and June 30, 2012."

SECTION 25.13.(b) G.S. 135-65 is amended by adding a new subsection to read:

"(dd) From and after July 1, 2012, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2011, shall be increased by one percent (1%) of the allowance payable on June 1, 2012. Furthermore, from and after July 1, 2012, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2011, but before June 30, 2012, shall be increased by a prorated amount of one percent (1%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 2011, and June 30, 2012."

SECTION 25.13.(c) G.S. 120-4.22A is amended by adding a new subsection to read:

"(x) In accordance with subsection (a) of this section, from and after July 1, 2012, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before January 1, 2012, shall be increased by one percent (1%) of the allowance payable on June 1, 2012. Furthermore, from and after July 1, 2012, the retirement allowance to or on account of beneficiaries whose retirement commenced after January 1, 2012, but before June 30, 2012, shall be increased by a prorated amount of one percent (1%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between January 1, 2012, and June 30, 2012."

PART XXVI. CAPITAL APPROPRIATIONS**CAPITAL APPROPRIATIONS/GENERAL FUND**

SECTION 26.1. There is appropriated from the General Fund for the 2012-2013 fiscal year the following amounts for capital improvements:

Capital Improvements – General Fund	2012-2013
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Department of Environment and Natural Resources	
Water Resources Development Projects	\$ 5,000,000

TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND	\$ 5,000,000
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WATER RESOURCES DEVELOPMENT PROJECTS

SECTION 26.2.(a) The Department of Environment and Natural Resources shall allocate funds for water resources projects in accordance with the schedule that follows. The amounts set forth in the schedule include funds appropriated in this act for water resources projects and funds carried forward from previous fiscal years in accordance with subsection (b) of this section. These funds will provide a State match for an estimated eighty-six million three hundred ninety thousand dollars (\$86,390,000) in federal funds.

Name of Project	2012-2013
------------------------	------------------

(1) B. Everett Jordan Lake Water Supply Storage	\$200,000
(2) Wilmington Harbor Maintenance	1,200,000
(3) Morehead City Harbor Maintenance	–
(4) Wilmington Harbor Deepening	6,000,000
(5) 2012 Corps Long Term MOA for Dredging	3,350,000
(6) Carolina Beach Renourishment Project	1,184,000
(7) Wilmington Harbor Improvements Feasibility	500,000
(8) John H. Kerr Dam and Reservoir Sec. 216	200,000
(9) Aquatic Plant Control, Statewide and Lake Gaston	200,000
(10) State-Local Projects	593,000
(11) Catawba Water Management Group Study	100,000

TOTALS	\$ 13,527,000
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SECTION 26.2.(b) It is the intent of the General Assembly that funds carried forward from previous fiscal years be used to supplement the five million dollars (\$5,000,000) appropriated for water resources development projects in Section 26.1 of this act. Therefore, the following funds carried forward from previous fiscal years shall be used for the following projects:

Name of Project	Amount Carried Forward
------------------------	-------------------------------

(1) B. Everett Jordan Lake Water Supply Storage	\$ 200,000
(2) Wilmington Harbor Maintenance	1,200,000
(3) 2012 Corps MOA for Shallow Draft Inlet Dredging	3,350,000
(4) Wilmington Harbor Deepening	3,000,000
(5) Wilmington Harbor Improvements Feasibility	250,000
(6) State-Local Projects	527,000

TOTALS	\$ 8,527,000
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SECTION 26.2.(c) Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects funded under subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 2012-2013 fiscal year, or if the projects funded

1 under subsection (a) of this section are accomplished at a lower cost, the Department may use
2 the resulting fund availability to fund any of the following:

- 3 (1) U.S. Army Corps of Engineers project feasibility studies.
- 4 (2) U.S. Army Corps of Engineers projects whose schedules have advanced and
5 require State-matching funds in the 2012-2013 fiscal year.
- 6 (3) State-local water resources development projects.

7 Funds subject to this subsection that are not expended or encumbered for the purposes set forth
8 in subdivisions (1) through (3) of this subsection shall revert to the General Fund at the end of
9 the 2013-2014 fiscal year.

10 **SECTION 26.2.(d)** The Department shall make semiannual reports on the use of
11 these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal
12 Research Division of the General Assembly, and the Office of State Budget and Management.
13 Each report shall include all of the following:

- 14 (1) All projects listed in this section.
- 15 (2) The estimated cost of each project.
- 16 (3) The date that work on each project began or is expected to begin.
- 17 (4) The date that work on each project was completed or is expected to be
18 completed.
- 19 (5) The actual cost of each project.

20 The semiannual reports also shall show those projects advanced in schedule, those
21 projects delayed in schedule, and an estimate of the amount of funds expected to revert to the
22 General Fund.

23 **SECTION 26.2.(e)** Notwithstanding any provision of law to the contrary, funds
24 appropriated for a water resources development project shall be used to provide no more than
25 fifty percent (50%) of the nonfederal portion of funds for the project. This subsection applies to
26 funds appropriated in this act and to funds appropriated prior to the 2011-2013 fiscal biennium
27 that are unencumbered and proposed for reallocation to provide the nonfederal portion of funds
28 for water resources development projects. The limitation on fund usage contained in this
29 subsection applies only to projects in which a local government or local governments
30 participate.

31 **SECTION 26.2.(f)** The 2012 Long Term Dredging Memorandum of Agreement
32 with the U.S. Army Corps of Engineers authorized by this section shall provide for all of the
33 following:

- 34 (1) Prioritization of projects through joint consultation with the State, applicable
35 units of local government, and the U.S. Army Corps of Engineers.
- 36 (2) Adherence to the requirements of subsection (e) of this section.
- 37 (3) Annual reporting by the Department on the use of funds provided to the U.S.
38 Army Corps of Engineers under the 2012 Long Term Dredging
39 Memorandum of Agreement. These reports shall be made to the Joint
40 Legislative Commission on Governmental Operations, the Fiscal Research
41 Division of the General Assembly, and the Office of State Budget and
42 Management and shall include all of the following:
 - 43 a. A list of all projects commenced.
 - 44 b. The estimated cost of each project.
 - 45 c. The date that work on each project commenced or is expected to
46 commence.
 - 47 d. The date that work on each project was completed or is expected to
48 be completed.
 - 49 e. The actual cost of each project.

51 **PROHIBIT EXPENDITURES OF STATE FUNDS FOR THE NORTH CAROLINA** 52 **INTERNATIONAL TERMINAL**

53 **SECTION 26.3.(a)** Notwithstanding G.S. 136-253 and any other provision of law,
54 State funds, as that term is defined in G.S. 143C-1-1, shall not be used to fund the North
55 Carolina International Terminal of the North Carolina State Ports Authority.

56 **SECTION 26.3.(b)** This section shall expire on June 30, 2013.

57 **REPAIRS AND RENOVATIONS RESERVE ALLOCATION**

1 **SECTION 26.4.(a)** Of the funds in the Reserve for Repairs and Renovations for
2 the 2012-2013 fiscal year, the following allocations shall be made to the following agencies for
3 repairs and renovations pursuant to G.S. 143C-4-3:

- 4 (1) Fifty percent (50%) shall be allocated to the Board of Governors of The
5 University of North Carolina.
- 6 (2) Fifty percent (50%) shall be allocated to the Office of State Budget and
7 Management.

8 The Office of State Budget and Management shall consult with or report to the Joint
9 Legislative Commission on Governmental Operations, as appropriate, in accordance with
10 G.S. 143C-4-3(e). The Board of Governors shall report to the Joint Legislative Commission on
11 Governmental Operations in accordance with G.S. 143C-4-3(d).

12 **SECTION 26.4.(b)** Notwithstanding G.S. 143C-4-3(d), of the funds allocated to
13 the Board of Governors of The University of North Carolina in subsection (a) of this section, a
14 portion shall be used by the Board of Governors for the installation of fire sprinklers in
15 university residence halls. This portion shall be in addition to funds otherwise appropriated in
16 this act for the same purpose. Such funds shall be allocated among the university's constituent
17 institutions by the President of The University of North Carolina, who shall consider the
18 following factors when allocating those funds:

- 19 (1) The safety and well-being of the residents of campus housing programs.
- 20 (2) The current level of housing rents charged to students and how that
21 compares to an institution's public peers and other UNC institutions.
- 22 (3) The level of previous authorizations to constituent institutions for the
23 construction or renovation of residence halls funded from the General Fund,
24 or from bonds or certificates of participation supported by the General Fund,
25 since 1996.
- 26 (4) The financial status of each constituent institution's housing system,
27 including debt capacity, debt coverage ratios, credit rankings, required
28 reserves, the planned use of cash balances for other housing system
29 improvements, and the constituent institution's ability to pay for the
30 installation of fire sprinklers in all residence halls.
- 31 (5) The total cost of each proposed project, including the cost of installing fire
32 sprinklers and the cost of other construction, such as asbestos removal and
33 additional water supply needs.

34 The Board of Governors shall submit progress reports to the Joint Legislative
35 Commission on Governmental Operations. Reports shall include the status of completed,
36 current, and planned projects. Reports also shall include information on the financial status of
37 each constituent institution's housing system, the constituent institution's ability to pay for fire
38 protection in residence halls, and the timing of installation of fire sprinklers. Reports shall be
39 submitted on January 1 and July 1 until all residence halls have fire sprinklers.

40 **SECTION 26.4.(c)** Notwithstanding G.S. 143C-4-3(d), of the funds allocated to
41 the Board of Governors of The University of North Carolina in subsection (a) of this section, a
42 portion shall be used by the Board of Governors for campus public safety improvements
43 allowable under G.S. 143C-4-3(b).

44 **REPORTING ON CAPITAL PROJECTS**

45 **SECTION 26.5.(a)** Definitions. – The following definitions apply in this section:

- 46 (1) Capital project. – Any capital improvement, as that term is defined in
47 G.S. 143C-1-1, that is not complete by the effective date of this section and
48 that is funded in whole or in part with either State funds or statutorily or
49 constitutionally authorized indebtedness of any kind. This term includes only
50 projects with a total cost of one hundred thousand dollars (\$100,000) or
51 more.
- 52 (2) Construction phase. – The status of a particular capital project as described
53 using the terms customarily employed in the design and construction
54 industries.
- 55 (3) New capital project. – A capital project that is authorized in this act or
56 subsequent to the effective date of this act.

57 **SECTION 26.5.(b)** Reporting. – The following reports are required:
58

1 (1) By October 1, 2012, and every six months thereafter, each State agency shall
 2 report on the status of agency capital projects to the Joint Legislative
 3 Commission on Governmental Operations and to the Joint Legislative
 4 Oversight Committee on Capital Improvements.

5 (2) By October 1, 2012, and quarterly thereafter, each State agency shall report
 6 on the status of agency capital projects to the Fiscal Research Division of the
 7 General Assembly and to the Office of State Budget and Management.

8 **SECTION 26.5.(c)** The reports required by this section shall include at least the
 9 following information about every agency capital project:

10 (1) The current construction phase of the project.

11 (2) The anticipated timeline from the current construction phase to project
 12 completion.

13 (3) Information about expenditures that have been made in connection with the
 14 project, regardless of source of the funds expended.

15 (4) Information about the adequacy of funding to complete the project,
 16 including estimates of how final expenditures will relate to initial estimates
 17 of expenditures, and whether or not scope reductions will be necessary in
 18 order to complete the project within its budget.

19 (5) For new capital projects only, an estimate of the operating costs for the
 20 project for the first five fiscal years of its operation.

21 **UNCW SOCIAL AND BEHAVIORAL SCIENCES BUILDING**

22 **SECTION 26.6.** Section 29.13(a) of S.L. 2007-323, as amended by Section 27.8(d)
 23 of S.L. 2008-107 and Section 2(b) of S.L. 2009-209, reads as rewritten:

24 "**SECTION 29.13.(a)** The State, with the prior approval of the State Treasurer and the
 25 Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized
 26 to issue or incur special indebtedness in order to provide funds to the State to be used, together
 27 with other available funds, to pay the capital facility costs of the projects described in this
 28 subsection. In accordance with G.S. 142-83, this subsection authorizes the issuance or
 29 incurrence of special indebtedness:
 30

31 ...
 32 (9) In the maximum aggregate principal amount of thirty-two million eight
 33 hundred ninety-nine thousand six hundred ninety-nine dollars (\$32,899,699)
 34 to finance the capital facility costs of completing a new teaching laboratory
 35 at the University of North Carolina at Wilmington and of renovating the
 36 Social and Behavioral Science Building at the University of North Carolina
 37 at Wilmington. No more than a maximum aggregate amount of two million
 38 five hundred thousand dollars (\$2,500,000) of special indebtedness may be
 39 issued or incurred under this subdivision prior to July 1, 2008. No more than
 40 a maximum aggregate amount of eight million six hundred thirty-one
 41 thousand two hundred fifty dollars (\$8,631,250) of special indebtedness may
 42 be issued or incurred under this subdivision prior to July 1, 2009.

43"

44 **TRANSFER FOR PLANT CONSERVATION PROGRAM**

45 **SECTION 26.9.** From funds deposited with the State Treasurer in a capital
 46 improvement account to the credit of the Department of Agriculture and Consumer Services
 47 pursuant to G.S. 146-30, the sum of thirty thousand dollars (\$30,000) for the 2012-2013 fiscal
 48 year shall be transferred to the Department of Agriculture and Consumer Services to be used,
 49 notwithstanding G.S. 146-30, by the Department for its plant conservation program under
 50 Article 19B of Chapter 106 of the General Statutes for costs incidental to the acquisition of
 51 land, such as land appraisals, land surveys, title searches, and environmental studies, and for
 52 the management of the plant conservation program preserves owned by the Department.
 53

54 **AUTHORIZE UNC CARRYFORWARD FUNDS TO BE USED FOR CAPITAL PROJECTS**

55 **SECTION 26.10.** Notwithstanding any other provision of law, for purposes of
 56 G.S. 143C-8-12, the term "non-General Fund money" includes funds carried forward from one
 57 fiscal year to another pursuant to G.S. 116-30.3. This section shall expire on June 30, 2013.
 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 Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets for House Bill 950, dated June 20, 2012, which was distributed in the House of Representatives and 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

SECTION 27.4. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2012-2013 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2012-2013 fiscal year.

EFFECT OF HEADINGS

SECTION 27.5. The headings to the parts and sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act, except for effective dates referring to a part.

APPROPRIATIONS LIMITATIONS AND DIRECTIONS APPLY

SECTION 27.6.(a) Except where expressly repealed or amended by this act, the provisions of S.L. 2011-145, S.L. 2011-315, S.L. 2011-373, S.L. 2011-391, S.L. 2011-419, S.L. 2012-2, and S.L. 2012-13 remain in effect.

SECTION 27.6.(b) Notwithstanding any modifications by this act in the amounts appropriated, except where expressly repealed or amended, the limitations and directions for the 2012-2013 fiscal year in S.L. 2011-145, S.L. 2011-315, S.L. 2011-373, S.L. 2011-391, S.L. 2011-419, S.L. 2012-2, and S.L. 2012-13 that applied to appropriations to particular agencies or for particular purposes apply to the newly enacted appropriations and budget reductions of this act for those same particular purposes.

SEVERABILITY

SECTION 27.7. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

EFFECTIVE DATE

SECTION 27.8. Except as otherwise provided, this act becomes effective July 1, 2012.