

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

FILED SENATE  
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S.B. 725  
PRINCIPAL CLERK

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SENATE DRS95081-LEa-96B\* (04/02)

Short Title: Governor's Proposed Budget. (Public)

Sponsors: Senators Brunstetter, Hunt, and Brown (Primary Sponsors).

Referred to:

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

5  
6 The General Assembly of North Carolina enacts:

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

9  
10 **INTRODUCTION**

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

16  
17 **TITLE OF ACT**

18 **SECTION 1.2.** This act shall be known as "The Current Operations and Capital  
19 Improvements Appropriations Act of 2013."

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

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

24 **SECTION 2.1.** Appropriations from the General Fund of the State for the  
25 maintenance of the State's departments, institutions, and agencies and for other purposes as  
26 enumerated are made for the biennium ending June 30, 2015, according to the following  
27 schedule:

28

29 State Agency or Division	FY 2013-2014	FY 2014-2015
30		
31 <b>HEALTH AND HUMAN SERVICES</b>		
32 Central Administration	\$ 58,894,045	\$ 66,009,244
33 Aging	54,942,341	55,142,341
34 Child Development	264,823,328	264,823,328
35 Public Health	142,836,502	142,836,502
36 Social Services	176,877,922	177,005,066



**General Assembly of North Carolina****Session 2013**

1	Medical Assistance	3,212,080,320	3,436,424,046
2	NC Health Choice	70,082,285	61,183,541
3	Services for the Blind	8,178,618	8,178,618
4	Mental Health/DD/SAS	714,174,172	696,657,624
5	Health Service Regulation	16,761,992	16,761,992
6	Vocational Rehabilitation	39,274,143	39,274,143
7	<b>Total Health and Human Services</b>	<b>\$ 4,758,925,668</b>	<b>\$ 4,964,296,445</b>
8			
9	<b>NATURAL AND ECONOMIC RESOURCES</b>		
10	Agriculture & Consumer Services	\$106,917,756	\$106,916,956
11	Commerce	39,368,324	40,880,494
12	Commerce – State Aid to Non-State Entities	28,452,642	26,236,224
13	Environment and Natural Resources	117,261,525	109,785,896
14	Clean Water Management Trust Fund	6,750,000	0
15	Wildlife Resources Commission	17,886,979	17,886,979
16	Labor	15,696,339	15,696,339
17	<b>Total Natural and Economic Resources</b>	<b>\$ 332,333,565</b>	<b>\$ 317,402,888</b>
18			
19	<b>JUSTICE AND PUBLIC SAFETY</b>		
20	Department of Public Safety	\$1,708,808,266	\$1,713,052,829
21	Judicial	459,008,142	459,247,481
22	Judicial – Indigent Defense	119,429,109	114,486,998
23	Justice	76,364,535	74,046,309
24	<b>Total Justice and Public Safety</b>	<b>\$ 2,363,610,052</b>	<b>\$ 2,360,833,617</b>
25			
26	<b>GENERAL GOVERNMENT</b>		
27	Administration	\$ 78,059,517	\$ 67,792,769
28	State Auditor	11,013,547	11,013,547
29	Cultural Resources	63,067,172	63,070,175
30	Cultural Resources – Roanoke Island	0	0
31	General Assembly	51,811,897	51,811,897
32	Governor's Office	5,120,050	5,122,132
33	Insurance	37,533,269	37,542,889
34	Insurance – Worker's Compensation Fund	2,300,000	2,300,000
35	Lieutenant Governor	588,581	584,581
36	Office of Administrative Hearings	4,976,436	4,736,047
37	Revenue	80,913,442	80,893,782
38	NC Housing Finance	9,376,249	9,376,249
39	Secretary of State	11,541,831	11,541,831
40	State Board of Elections	5,584,003	5,584,003
41	State Budget and Management (OSBM)	7,001,706	7,034,217
42	OSBM – Special Appropriations	1,000,000	0
43	Office of State Controller	29,125,970	29,125,970
44	State Treasurer	8,137,890	7,026,305
45	State Treasurer – Retirement/Benefits	23,179,042	23,179,042
46	<b>Total General Government</b>	<b>\$ 430,330,602</b>	<b>\$ 417,735,436</b>
47			
48	<b>EDUCATION</b>		
49	Public Schools	\$ 7,899,768,926	\$ 8,119,774,153
50	Community Colleges	1,026,803,219	1,035,803,219
51	University of North Carolina		

**General Assembly of North Carolina****Session 2013**

1	Appalachian State University	127,747,265	127,747,265
2	East Carolina University		
3	Academic Affairs	218,854,429	219,457,605
4	Health Affairs	64,841,247	64,841,247
5	Elizabeth City State University	35,133,311	35,155,156
6	Fayetteville State University	49,336,186	49,336,186
7	North Carolina Agricultural and	96,423,834	96,423,834
8	Technical State University		
9	North Carolina Central University	84,084,488	84,084,488
10	North Carolina State University		
11	Academic Affairs	389,047,413	389,115,499
12	Agricultural Extension	39,825,861	39,825,861
13	Agricultural Research	54,911,053	54,911,053
14	University of North Carolina at Asheville	37,465,299	37,465,299
15	University of North Carolina at Chapel Hill		
16	Academic Affairs	273,208,385	273,090,851
17	Health Affairs	202,260,403	205,741,444
18	Area Health Education Centers	42,418,348	42,418,348
19	University of North Carolina at Charlotte	191,185,276	191,170,762
20	University of North Carolina at Greensboro	153,296,502	153,242,270
21	University of North Carolina at Pembroke	53,552,323	53,552,323
22	University of North Carolina at Wilmington	96,014,220	96,014,220
23	University of North Carolina School of the Arts	31,358,470	28,957,213
24	Western Carolina University	82,264,105	82,264,105
25	Winston-Salem State University	68,778,852	68,801,280
26	General Administration	34,752,475	34,752,475
27	University Institutional Programs	(116,112,032)	(82,893,408)
28	Related Educational Programs (Financial Aid)	109,018,793	110,107,420
29	Aid to Private Colleges	81,851,588	81,851,588
30	North Carolina School of Science and Mathematics	19,126,182	19,126,182
31	UNC Hospitals at Chapel Hill	0	0
32	Total University of North Carolina	2,520,644,276	2,556,560,566
33	<b>Total Education</b>	<b>\$ 11,447,216,421</b>	<b>\$ 11,712,137,938</b>
34			
35	<b>Total Budget</b>	<b>\$ 19,332,416,308</b>	<b>\$ 19,772,406,324</b>
36			
37	<b>DEBT SERVICE</b>		
38	General Debt Service	\$ 716,493,616	\$ 717,287,980
39	Federal Reimbursement	1,616,380	1,616,380
40	<b>Total Debt Service</b>	<b>\$ 718,109,996</b>	<b>\$ 718,904,360</b>
41			
42	<b>RESERVES &amp; ADJUSTMENTS</b>		
43	Contingency and Emergency Reserve	5,000,000	5,000,000
44	Severance Reserve	7,500,000	0
45	Job Development Investment Grants	60,000,000	71,000,000
46	Compensation Adj. Reserve-State Employees	135,700,000	135,700,000
47	Compensation Adj. Reserve-Retirees	35,000,000	35,000,000
48	Salary Adjustment Reserve	20,000,000	20,000,000
49	Disaster Reserve	10,000,000	10,000,000
50	GF-Reserve for One NC Fund	9,000,000	11,800,000
51	Health Plan Reserve	45,000,000	136,200,000

1	IT Initiative	6,053,142	6,053,142
2	Retirement Rate Adjustment Reserve	36,100,000	36,100,000
3	Information Technology Reserve	27,000,000	32,000,000
4	Natural Heritage Trust Fund Reserve	4,230,000	4,230,000
5	Parks & Rec. Trust Fund Reserve	15,500,000	15,500,000
6	Solid Waste Trust Fund Reserve	2,462,000	2,462,000
7	Scrap Tire Reserve	1,079,717	1,079,717
8	Medicaid Risk Reserve	90,000,000	90,000,000
9	Reserve for Dept. of Justice Legal Positions	7,450,319	9,933,759
10	NC Gov. Efficiency and Reform Project (NC GEAR)	2,000,000	2,000,000
11	Savings Reserve	0	69,174,764
12	<b>Total Reserves &amp; Adjustments</b>	<b>\$ 519,075,178</b>	<b>\$ 693,233,382</b>
13			
14	<b>CAPITAL</b>		
15	Capital Improvements	32,067,122	150,000,000
16	<b>Total Capital</b>	<b>\$ 32,067,122</b>	<b>\$ 150,000,000</b>
17			
18	<b>Total General Fund Budget</b>	<b>\$ 20,601,668,604</b>	<b>\$ 21,334,544,066</b>

**GENERAL FUND AVAILABILITY STATEMENT**

SECTION 2.2. The General Fund availability used in developing the 2013-2015 budget is shown below:

	<b>FY 2013-2014</b>	<b>FY 2014-2015</b>
<b>Description</b>	<b>(In Millions)</b>	<b>(In Millions)</b>
<b>Beginning Availability</b>		
Unappropriated Balance from Prior Fiscal Year	\$ 213,432,878	\$ 130,825,236
Anticipated Overcollections	102,600,000	0
Anticipated Reversions	125,500,000	0
Medicaid Funding Required for FY 2012-13	(123,100,000)	0
Credit to Savings Reserve Account	(200,000,000)	(130,825,236)
Credit to Repairs and Renovations Reserve Account	(117,932,878)	0
<b>Beginning Unreserved Credit Balance</b>	<b>\$ 0</b>	<b>\$ 0</b>
<b>Revenues</b>		
Tax:		
Individual Income Tax	\$ 11,211,200,000	\$ 11,796,400,000
Corporate Income Tax	1,099,100,000	1,181,100,000
Sales and Use	5,491,000,000	5,735,100,000
Other Tax	1,922,200,000	1,955,900,000
Total Tax	19,723,500,000	20,668,500,000
Nontax/Transfers	833,500,000	836,100,000
<b>Total Revenue</b>	<b>\$ 20,557,000,000</b>	<b>\$ 21,504,600,000</b>
<b>Revenue Changes</b>		
Repeal Estate Tax (effective 1-1-13)	\$ (52,000,000)	\$ (57,000,000)
Repeal Corporate Tax Transfer Permanently	75,000,000	75,000,000
Retention of Golden LEAF Funds	65,000,000	65,000,000
Natural Heritage Trust Fund	9,900,000	9,900,000
Parks and Recreation Trust Fund	27,500,000	27,500,000
White Goods Management Account	1,217,796	1,217,796
Scrap Tire Disposal Account	2,675,291	2,675,291

1	Solid Waste Trust Fund	4,011,000	4,011,000
2	Master Settlement Agreement Funds	25,000,000	25,000,000
3	Repeal NC Public Campaign Fund	4,125,171	0
4	Repeal NC Political Parties Financing Fund	1,064,582	0
5	Transfer from NC Flex FICA Funds	2,000,000	0
6	Disproportionate Share Receipts	10,000,000	9,000,000
7	<b>Subtotal Revenue Changes</b>	<b>\$ 175,493,840</b>	<b>\$ 162,304,087</b>
8			
9	<b>Total Availability</b>	<b>\$ 20,732,493,840</b>	<b>\$ 21,666,904,087</b>
10			
11	<b>Less: Total General Fund Appropriations</b>	<b>\$ 20,601,668,604</b>	<b>\$ 21,334,544,0661</b>
12			
13	<b>Unappropriated Balance Remaining</b>	<b>\$ 130,825,236</b>	<b>\$ 332,360,021</b>
14			

15 **SECTION 2.3.** Notwithstanding the provisions of G.S. 143C-4-2, the State  
 16 Controller shall transfer two hundred million dollars (\$200,000,000) from the unreserved fund  
 17 balance to the Savings Reserve Account on June 30, 2013.

18 **SECTION 2.4.** Notwithstanding the provisions of G.S. 143C-4-2, the State  
 19 Controller shall transfer one hundred thirty million eight hundred twenty-five thousand two  
 20 hundred thirty-six dollars (\$130,825,236) shall be transferred from the unreserved fund balance  
 21 to the Savings Reserve Account on June 30, 2014. In addition, sixty-nine million one hundred  
 22 seventy-four thousand seven hundred sixty-four dollars (\$69,174,764) is appropriated to the  
 23 Savings Reserve Account for fiscal year 2014-2015.

24 **SECTION 2.5.** Notwithstanding the provisions of G.S. 143C-4-3, the State  
 25 Controller shall transfer one hundred seventeen million nine hundred thirty-two thousand eight  
 26 hundred seventy-eight dollars (\$117,932,878) from the unreserved fund balance to the Repairs  
 27 and Renovations Reserve Account on June 30, 2013.

28 **SECTION 2.6.** Funds transferred under this section to the Repairs and Renovation  
 29 Reserve Account are appropriated for the 2013-2014 fiscal year to be used in accordance with  
 30 G.S. 143C-4-3.

31 **SECTION 2.7.** Additionally, thirty-two million sixty-seven thousand one hundred  
 32 twenty-two dollars (\$32,067,122) are appropriated to the Repairs and Renovations Reserve for  
 33 fiscal year 2013-2014. For fiscal year 2014-2015 one hundred fifty million dollars  
 34 (\$150,000,000) is appropriated.

35 **SECTION 2.8.** Of the 2013-2014 and the 2014-2015 annual installment payments  
 36 to the North Carolina State Specific Account that would have been transferred to Golden  
 37 L.E.A.F. (Long-Term Economic Advancement Foundation), Inc., pursuant to Section 2(b) of  
 38 S.L. 1999-2, is transferred to the General Fund.

39 **SECTION 2.10.** Notwithstanding any other provision of law to the contrary,  
 40 effective July1, 2013, the following amounts shall be transferred to the State Controller to be  
 41 deposited in Nontax Budget Code 19978 (Intrastate Transfers) or the appropriate budget code  
 42 as determined by the State Controller. These funds shall be used to support the General Fund  
 43 appropriations as specified in this act for the 2013-2014 fiscal year.

<b>Budget Fund</b>				
	Code	Code	Description	Amount
46	68025	6101	NC Public Campaign Fund	\$4,125,171
47	68026	6200	NC Political Parties Financing Fund	1,064,582
48	24160	2000	NC Flex FICA Fund	2,000,000
49				
50				

1           **SECTION 2.11.** Of the funds available in the 2011-2012 fiscal year fund balance,  
 2 the Director of the Budget may use up to one hundred twenty-three million one hundred  
 3 thousand dollars (\$123,100,000) to pay Medicaid costs for fiscal year 2012-2013 and are  
 4 thereby appropriated for such purpose. The Director of the Budget shall report the amount of  
 5 funds used under this section no later than 30 days after payment to the Joint Legislative  
 6 Commission on Governmental Operations, the chairs of the Senate and House of  
 7 Representative Appropriations committees, and the Fiscal Research Division.

8  
 9 **PART III. CURRENT OPERATIONS/HIGHWAY FUND**

10  
 11 **CURRENT OPERATIONS/HIGHWAY FUND**

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

17 <b>Current Operations – Highway Fund</b>	17 <b>FY 2013-2014</b>	17 <b>FY 2014-2015</b>
18 <b>Department of Transportation</b>		
19 General Administration	\$ 94,481,079	\$ 99,447,479
20 Division of Highways		
21 Administration	34,713,561	34,713,561
22 State Match for Federal Aid-Planning and Research	4,055,402	4,055,402
23 Construction Program		
24 State Secondary System	\$ 87,400,234	\$ 86,718,513
25 Discretionary Funds	14,000,000	14,000,000
26 Economic Development Fund	3,569,535	4,036,171
27 Spot Safety Improvements	11,858,000	11,858,000
28 Access and Public Services Roads	1,723,707	1,723,707
29 Total Construction Program	\$ 118,551,476	\$ 118,336,391
30 Maintenance Program		
31 Primary System	\$ 146,864,736	\$ 144,044,736
32 Secondary System	270,224,518	268,364,518
33 System Preservation	180,828,495	180,228,495
34 Contract Resurfacing	355,884,653	355,884,653
35 General Maintenance Reserve	89,790,226	45,560,850
36 Total Maintenance Program	\$ 1,043,612,628	\$ 994,083,252
37 Ferry Operations	\$ 35,935,538	\$ 34,785,538
38 State Aid to Municipalities	87,400,234	86,718,513
39 State Aid to Railroads	21,461,294	21,461,294
40 State Aid for Public Transportation	83,351,374	82,851,374
41 Airports	21,766,662	19,669,983
42 Bicycle	880,513	880,513
43 OSHA	365,337	365,337
44 Governor's Highway Safety Program	284,932	284,932
45 Division of Motor Vehicles	105,180,968	104,702,310
46 <b>Total Department of Transportation</b>	<b>\$ 1,400,239,480</b>	<b>\$ 1,345,803,046</b>
47		
48 <b>Appropriations to Other State Agencies</b>		
49 Agriculture	\$ 5,053,457	\$ 5,053,457
50 Revenue	5,112,866	5,112,866
51 State Treasurer	21,551,663	19,288,738

1	Office of State Controller-BEST Shared Services	481,835	481,835
2	Public Instruction – Driver Education	27,222,628	27,788,472
3	CCPS – Highway Patrol	196,582,981	196,582,981
4	DPS – Motor Carrier Safety	2,010,053	2,010,053
5	DHHS – Chemical Test	572,321	572,321
6	<b>Total Other State Agencies</b>	<b>\$ 258,587,804</b>	<b>\$ 256,890,723</b>
7			
8	<b>Reserves and Transfers</b>		
9	Minority Contractor Development	\$ 150,000	\$ 150,000
10	State Fire Protection Grant	158,000	158,000
11	Storm Water Management	500,000	500,000
12	Global Transpark	1,000,000	1,000,000
13	Reserve for Administrative Reduction	(2,132,962)	(2,132,962)
14	Reserve for Legislative Salary Increase	3,801,845	3,801,845
15	Reserve for Health Insurance Adjustment	2,200,000	6,900,000
16	Employer's Contribution to Retirement	1,282,741	1,282,741
17	Reserve for COLA for Retirees	1,000,000	1,000,000
18	<b>Total Reserves and Transfers</b>	<b>\$ 8,515,698</b>	<b>\$ 13,215,698</b>
19			
20	<b>Total Current Operations</b>	<b>\$ 1,919,144,500</b>	<b>\$ 1,872,462,300</b>
21			
22	<b>Capital Improvements</b>	<b>\$ 18,055,500</b>	<b>\$ 19,937,700</b>
23			
24	<b>Total Highway Fund Appropriation</b>	<b>\$ 1,937,200,000</b>	<b>\$ 1,892,400,000</b>
25			

**HIGHWAY FUND AVAILABILITY STATEMENT**

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

30	<b>Highway Fund Availability Statement</b>	<b>2013-2014</b>	<b>2014-2015</b>
31			
32	Beginning Credit Balance	\$ 0	\$ 0
33	Estimated Revenue	1,937,200,000	1,892,400,000
34	Estimated Reversions	0	0
35			
36	<b>Total Highway Fund Availability</b>	<b>\$ 1,937,200,000</b>	<b>\$ 1,892,400,000</b>
37			

**PART IV. HIGHWAY TRUST FUND APPROPRIATIONS**

**HIGHWAY TRUST FUND APPROPRIATIONS**

**SECTION 4.1.** Appropriations from the Highway Trust Fund are made for the biennium ending June 30, 2013, according to the following schedule:

44	<b>Highway Trust Fund</b>	<b>FY 2013-2014</b>	<b>FY 2014-2015</b>
45			
46	Department of Transportation:		
47	Maximum Allowance for Administration	\$ 52,980,000	\$ 52,965,600
48	Construction Allocation:		
49	Intrastate System	507,130,451	502,360,745
50	Urban Loop System	161,472,076	180,310,414
51	Secondary Roads	79,355,524	83,923,550

1	State Aid to Municipalities	55,191,859	55,132,243
2	Bonds:		
3	Bond Redemption	62,417,880	46,676,132
4	Bond Interest	16,752,210	13,631,316
5	NC Turnpike Authority	112,000,000	112,000,000
6	NC Mobility Fund	58,000,000	58,000,000
7	Reserve for Visitor Centers	400,000	400,000
8			
9	<b>Total Highway Trust Fund Appropriations</b>	<b>\$ 1,105,700,000</b>	<b>\$ 1,105,400,000</b>

**HIGHWAY TRUST FUND AVAILABILITY STATEMENT**

**SECTION 4.2.** The Highway Trust Fund availability used in developing the 2011-2013 biennial budget is shown below:

15	<b>Highway Trust Fund Availability Statement</b>	<b>FY 2013-2014</b>	<b>FY 2014-2015</b>
17	Beginning Credit Balance	-	-
18	Estimated Revenue	\$ 1,105,700,000	\$ 1,105,400,000
19	Estimated Reversions	-	-
21	<b>Total Highway Trust Fund Availability</b>	<b>\$ 1,105,700,000</b>	<b>\$ 1,105,400,000</b>

**PART V. OTHER AVAILABILITY AND APPROPRIATIONS**

**NORTH CAROLINA EDUCATION LOTTERY**

**SECTION 5.1.** G.S. 18C-162 reads as rewritten:

**"§ 18C-162. Allocation of revenues.**

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

- (1) At least fifty percent (50%) of the total annual revenues, as described in this Chapter, shall be returned to the public in the form of prizes.
- (2) At least thirty-five percent (35%) of the total annual revenues, as described in this Chapter, shall be transferred as provided in G.S. 18C-164.
- (3) No more than eight percent (8%) of the total annual revenues, as described in this Chapter, shall be allocated for payment of expenses of the Lottery. Advertising expenses shall not exceed ~~one percent (1%)~~ one-half percent (0.50%) of the total annual revenues.

...."

**SECTION 5.2** G.S. 18C-151 reads as rewritten:

**"§ 18C-151. Contracts.**

(a) Except as otherwise specifically provided in this subsection for contracts for the purchase of services, apparatus, supplies, materials, or equipment, Article 8 of Chapter 143 of the General Statutes, including the provisions relating to minority participation goals, shall apply to contracts entered into by the Commission. If this subsection and Article 8 of Chapter 143 are in conflict, the provisions of this subsection shall control. In recognition of the particularly sensitive nature of the Lottery and the competence, quality of product, experience, and timeliness, fairness, and integrity in the operation and administration of the Lottery and maximization of the objective of raising revenues, a contract for the purchase of services, apparatus, supplies, materials, or equipment requiring an estimated aggregate expenditure of



1 ~~ninety thousand dollars (\$90,000)~~ three hundred thousand dollars (\$300,000) or more may be  
2 awarded by the Commission only after the following have occurred:

- 3 (1) The Commission has invited proposals to be submitted by advertisement by  
4 electronic means or advertisement in a newspaper having general circulation  
5 in the State of North Carolina and containing the following information:
    - 6 a. The time and place where a complete description of the services,  
7 apparatus, supplies, materials, or equipment may be had.
    - 8 b. The time and place for opening of the proposals.
    - 9 c. A statement reserving to the Commission the right to reject any or all  
10 proposals.
  - 11 (2) Proposals may be rejected for any reason determined by the Commission to  
12 be in the best interest of the Lottery.
  - 13 (3) All proposals shall be accompanied by a bond or letter of credit in an amount  
14 equal to not less than five percent (5%) of the proposal and the fee to cover  
15 the cost of the criminal record check conducted under G.S. 114-19.6.
  - 16 (4) The Commission has complied with the minority participation goals of G.S.  
17 143-128.2 and G.S. 143-128.3.
  - 18 (5) The Commission may not award a contract to a lottery potential contractor  
19 who has been convicted of a felony or any gambling offense in any state or  
20 federal court of the United States within 10 years of entering into the  
21 contract, or employs officers and directors who have been convicted of a  
22 felony or any gambling offense in any state or federal court of the United  
23 States within 10 years of entering into the contract.
  - 24 (6) The Commission shall investigate and compare the overall business  
25 practices, ethical reputation, criminal record, civil litigation, competence,  
26 integrity, background, and regulatory compliance record of lottery potential  
27 contractors.
  - 28 (7) The Commission may engage an independent firm experienced in evaluating  
29 government procurement proposals to aid in evaluating proposals for a major  
30 procurement.
  - 31 (8) The Commission shall award the contract to the responsible lottery potential  
32 contractor or lottery supplier who submits the best proposal that maximizes  
33 the benefits to the State.
- 34 (b) Upon the completion of the bidding process, a contract may be awarded to a lottery  
35 contractor or lottery supplier with whom the Commission has previously contracted for the  
36 same purposes.
- 37 (c) Before a contract is awarded, the Director shall conduct a thorough background  
38 investigation of all of the following:
- 39 (1) The potential contractor to whom the contract is to be awarded.
  - 40 (2) Any parent or subsidiary corporation of the potential contractor to whom the  
41 contract is to be awarded.
  - 42 (3) All shareholders with a five percent (5%) or more interest in the potential  
43 contractor or parent or subsidiary corporation of the potential contractor to  
44 whom the contract is to be awarded. For purposes of this subdivision,  
45 "shareholders" means any natural person or those individuals with  
46 capabilities to make operating decisions for the potential contractor or parent  
47 or subsidiary corporation of the potential contractor to whom the contract is  
48 to be awarded.
  - 49 (4) All officers and directors of the potential contractor or parent or subsidiary  
50 corporation of the potential contractor to whom the contract is to be  
51 awarded.

1 (d) The Commission may terminate the contract, without penalty, of a lottery contractor  
2 that fails to comply with the Commission's instruction to implement the recommendations of  
3 the State Auditor or an independent auditor in an audit conducted of Lottery security or  
4 operations.

5 (e) After entering into a contract with a lottery contractor, the Commission shall require  
6 the lottery contractor to periodically update the information required to be disclosed under G.S.  
7 18C-152(c). Any contract with a lottery contractor who does not periodically update the  
8 required disclosures may be terminated by the Commission.

9 (f) No lottery contractor, potential contractor, or lottery supplier may pay, give, or  
10 make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or  
11 service, excluding food and beverages having an aggregate value not exceeding one hundred  
12 dollars (\$100.00) in any calendar year, to the Director, any member or employee of the  
13 corporation, or a member of the immediate family residing in the same household as any of  
14 these individuals."

## 15 16 CIVIL FORFEITURE FUNDS

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

	<b>FY 2013-2014</b>	<b>FY 2014-2015</b>
19 School Technology Fund	\$ 18,000,000	\$ 18,000,000
20 State Public School Fund	\$146,313,464	\$120,362,790
21 Total Appropriation	\$164,313,464	\$138,362,790

22 **SECTION 5.3.(b)** Excess receipts realized in the Civil Penalty and Forfeiture Fund  
23 in the 2012-2013 fiscal year shall be allocated to the State Public School Fund.  
24  
25

## 26 EDUCATION LOTTERY

27 **SECTION 5.4.(a)** Notwithstanding G.S. 18C-164, the revenue used to support  
28 appropriations made in this act is transferred from the State Lottery Fund in the amount of four  
29 hundred sixty-eight million one hundred eighty-seven thousand fifty-six dollars (\$468,187,056)  
30 for the 2013-2014 fiscal year.

31 **SECTION 5.4.(b)** Notwithstanding G.S. 18C-164, the appropriations made from  
32 the Education Lottery Fund for the 2013-2014 fiscal year are as follows:

33 Teachers in Early Grades	\$ 220,643,188
34 Prekindergarten Program	\$ 80,204,709
35 Public School Building Capital Fund	\$ 100,000,000
36 Scholarships for Needy Students	\$ 30,450,000
37 UNC Need-Based Financial Aid	\$ 10,744,733
38 Digital Learning in Public Schools	\$ 26,144,985
39 Total Appropriation	\$ 468,187,056

40 **SECTION 5.4.(c)** Notwithstanding G.S. 18C-164, the North Carolina State Lottery  
41 Commission shall not transfer funds to the Education Lottery Reserve Fund for the 2013-2014  
42 fiscal year or the 2014-2015 fiscal year.

43 **SECTION 5.4.(d)** Notwithstanding G.S. 18C-164(c), G.S. 115C-546.2(d), or any  
44 other provision of law, funds appropriated in this section to the Public School Building Capital  
45 Fund for the 2013-2014 fiscal year shall be allocated to counties on the basis of average daily  
46 membership (ADM).

47 **SECTION 5.4.(e)** Notwithstanding G.S. 18C-164(c), Article 35A of Chapter 115C  
48 of the General Statutes, or any other provision of law, the funds appropriated in this section for  
49 UNC Need-Based Financial Aid shall be administered in accordance with the policy adopted  
50 by the Board of Governors of The University of North Carolina.

1           **SECTION 5.4.(f)** Funds appropriated in this section for scholarships for needy  
2 students shall be used only for students at the constituent institutions of The University of  
3 North Carolina and the constituent institutions of the Community College System.

4           **SECTION 5.4.(g)** Notwithstanding G.S. 18C-164(f) or any other provision of law,  
5 excess lottery receipts realized in the 2012-2013 fiscal year shall be allocated for Digital  
6 Learning in Public Schools.

7           **SECTION 5.4.(h)** Funds appropriated in this section for digital learning shall be  
8 placed in a reserve and shall only be allocated to LEAs through a competitive application  
9 process for third grade reading achievement or other targeted high priority instructional needs  
10 per criteria established by the State Board of Education.

11           **SECTION 5.4.(i)** The State Board of Education shall report the recipients of the  
12 competitive grants and the amount awarded to each recipient. The report shall also include  
13 documentation of the purchases and expenditures from the grant award received. The report  
14 shall be submitted to the Office of State Budget and Management, the Fiscal Research  
15 Division, and the Joint Legislative Education Oversight Committee by March 1 of each year.

16           **SECTION 5.4.(j)** Subsection (g) of this section becomes effective June 30, 2013.

#### 17 18 **OTHER RECEIPTS FROM PENDING GRANT AWARDS**

19           **SECTION 5.5.** Notwithstanding G.S. 143C-6-4, State agencies may, with approval  
20 of the Director of the Budget, spend funds received from grants awarded subsequent to the  
21 enactment of this act. The Office of State Budget and Management shall work with the  
22 recipient State agencies to budget grant awards according to the annual program needs and  
23 within the parameters of the respective granting entities. Depending on the nature of the award,  
24 additional State personnel may be employed on a temporary or permanent time-limited basis or  
25 on a permanent full-time basis if the grant is intended to be recurring. The Office of State  
26 Budget and Management shall report to the Joint Legislative Commission on Governmental  
27 Operations prior to expending any funds received from grant awards. Funds received from such  
28 grants are hereby appropriated and shall be incorporated into the authorized budget of the  
29 recipient State agency.

#### 30 31 **ESTABLISH SEVERANCE EXPENDITURE RESERVE**

32           **SECTION 5.6.(a)** There is established in the Office of State Budget and  
33 Management a General Fund reserve budget code for the purpose of funding severance-related  
34 obligations to State employees subject to the State Personnel Act and employees exempt from  
35 the State Personnel Act who are separated from service due to a reduction-in-force action.  
36 Severance-related expenditures from this reserve shall include obligations to fund (i) a State  
37 employee's severance salary continuation with an age adjustment factor as authorized by  
38 G.S. 126-8.5, including employer-related contributions for social security, and (ii)  
39 noncontributory health premiums for up to 12 months as authorized by G.S. 135-45.2(a)(8) for  
40 employees of employing units as defined by G.S. 135-45.1(12).

41           **SECTION 5.6.(b)** The Director of the Budget shall allocate funds appropriated in  
42 Section 2.1 of this act to the Severance Expenditure Reserve to public agencies to fund  
43 severance-related obligations incurred by the agencies as a result of reduction-in-force actions  
44 that cause State-supported public employees to be terminated from public employment. Funds  
45 appropriated to the Severance Expenditure Reserve shall be expended in their entirety before  
46 funds appropriated to a public agency for State-supported personal services expenditures may  
47 be used to fund any severance-related obligations. For the purposes of this subsection, the term  
48 "public employee" means an employee of a State agency, department, or institution; The  
49 University of North Carolina; the North Carolina Community Colleges System Office; or a  
50 local school administrative unit.

**PART VI. GENERAL PROVISIONS****GOVERNMENT EFFICIENCY AND REFORM**

**SECTION 6.1.** The North Carolina Government Efficiency and Reform (NC GEAR) project is established.

**SECTION 6.2.(a)** The Office of State Budget and Management shall contract for a Government Efficiency and Reform review and analysis of the executive branch of State government, referred to as NC GEAR. The purpose of the review and analysis is to evaluate the efficiency and effectiveness of State government and to identify specific reforms to make improvements. The review and analysis may examine entire departments, agencies, or institutions, or similar programs in several departments. The review and analysis shall include an examination of the efficiency and effectiveness of major management policies, practices, and functions contained in the following areas:

- (1) The statutory authority, funding sources, and functions of each department, agency, institution, or program.
- (2) The organizational structure and staffing patterns in place to perform said functions and the appropriateness of them based on comparative data and other reasonable staffing criteria.
- (3) The measurement of outcomes, overall performance, and degree of success, considering the resources provided, each program reviewed has achieved in accomplishing its mandated or stated mission and subsequent goals.
- (4) Whether State and local responsibilities for providing government services, and the source of funds for the same, should be reallocated.
- (5) Personnel systems operations and management.
- (6) State purchasing operations and management.
- (7) Information technology and telecommunications systems policy, organization, and management.
- (8) The identification of opportunities to reduce fragmentation, duplication and related or overlapping services or activities through restructuring of departmental organizations and streamlining programs.

**SECTION 6.2.(b)** All executive branch departments, agencies, boards, commissions, authorities, and institutions in the executive branch of State government, and other non-State entities receiving State funds, including receipt supported agencies, shall be subject to review and analysis. The chief administrative officer of each entity shall ensure full cooperation with the Office of State Budget and Management and provide timely responses to the Office of State Budget and Management's request for information under the provisions of G.S. 143C-2-1(b).

**SECTION 6.2.(c)** Much like the General Assembly sponsored Government Performance and Audit Committee (GPAC) work of the 1990s, the Office of State Budget and Management will work collaboratively with the North Carolina General Assembly's Fiscal Research and Program Evaluation Divisions, as well as with the Office of State Auditor, to develop the review, analysis, and findings needed to develop a final report and recommendation to the Governor and General Assembly.

**SECTION 6.2.(d)** There is appropriated from the General Fund to the Office of State Budget and Management the sum of two million dollars (\$2,000,000) for the 2013-2014 fiscal year and the sum of two million dollars (\$2,000,000) for the 2014-2015 fiscal year for the North Carolina Government Efficiency and Reform (NC GEAR) project. These funds shall not revert at the end of the respective fiscal year but shall remain available for expenditure in the 2015-2016 fiscal year for the performance and completion of the project. The funds appropriated for this project shall be used to contract with various consultants and other experts to pay travel, postage, printing, planning, and other related costs as needed to accomplish the

1 objectives specified. For purposes of this review and analysis, the Office of State Budget and  
2 Management is exempted from the contracting provisions of Chapter 143 of the General  
3 Statutes and related State purchasing and budget regulations; however, all external contracts for  
4 consultants or professional services shall be reported within 30 days of the execution of any  
5 said contract to the Joint Legislative Commission on Governmental Operations, the Fiscal  
6 Research Division, and to the President Pro Tempore of the Senate and the Speaker of the  
7 House of Representatives.

8 **SECTION 6.2.(e)** The Office of State Budget and Management shall submit an  
9 interim report of the Government Efficiency and Reform project's analysis, findings, and  
10 recommendations to the Governor, the President Pro Tempore of the Senate, and the Speaker of  
11 the House of Representatives by February 15, 2014. A final report of the project's analysis,  
12 findings and recommendations will be submitted by the Office of State Budget and  
13 Management to the Governor, the President Pro Tempore of the Senate and the Speaker of the  
14 House of Representatives by February 15, 2015.

## 15 **APPROPRIATION OF CASH BALANCES AND RECEIPTS**

16 **SECTION 6.3.** Expenditures of cash balances, federal funds, departmental  
17 receipts, grants, and gifts from the various General Fund, Special Revenue Fund, Enterprise  
18 Fund, Internal Service Fund, and Trust and Agency Fund budget codes are appropriated and  
19 authorized for the 2013-2015 fiscal biennium as follows:  
20

- 21 (1) For all budget codes listed in "The State of North Carolina, Governor's  
22 Recommended Budget, 2013-2015," cash balances and receipts are  
23 appropriated up to the amounts specified in the recommended budget, as  
24 adjusted by the General Assembly, for the 2013-2014 fiscal year and the  
25 2014-2015 fiscal year. Funds may be expended only for the programs,  
26 purposes, objects, and line items specified in the recommended budget or  
27 otherwise authorized by the General Assembly.
- 28 (2) For all budget codes that are not listed in "The State of North Carolina,  
29 Governor's Recommended Budget, 2013-2015," cash balances and receipts  
30 are appropriated for each year of the 2013-2015 fiscal biennium up to the  
31 level of actual expenditures for the 2012-2013 fiscal year, unless otherwise  
32 provided by law. Funds may be expended only for the programs, purposes,  
33 objects, and line items authorized for the 2012-2013 fiscal year.
- 34 (3) Notwithstanding subdivisions (1) and (2) of this section, any receipts that are  
35 required to be used to pay debt service requirements for various outstanding  
36 bond issues and certificates of participation are appropriated up to the actual  
37 amounts received for the 2013-2014 fiscal year and the 2014-2015 fiscal  
38 year and shall be used only to pay debt service requirements.
- 39 (4) Notwithstanding subdivisions (1) and (2) of this section, cash balances and  
40 receipts of funds that meet the definition issued by the Governmental  
41 Accounting Standards Board of a trust or agency fund are appropriated for  
42 and in the amounts required to meet the legal requirements of the trust  
43 agreement for the 2013-2014 fiscal year and the 2014-2015 fiscal year.

44 All these cash balances, federal funds, departmental receipts, grants, and gifts shall  
45 be expended and reported in accordance with the provisions of the State Budget Act, except as  
46 otherwise provided by law and this section.

## 47 **EXPENDITURES OF FUNDS IN RESERVES LIMITED**

48 **SECTION 6.4.** All funds appropriated by this act into reserves may be expended  
49 only for the purposes for which the reserves were established.  
50  
51

**BUDGET CODE CONSOLIDATIONS**

**SECTION 6.5.** Notwithstanding G.S. 143C-6-4, the Office of State Budget and Management may adjust the enacted budget by making transfers among purposes or programs for the purpose of consolidating budget and fund codes or eliminating inactive budget and fund codes. The Office of State Budget and Management shall change the authorized budget to reflect these adjustments.

**BUDGET REALIGNMENT**

**SECTION 6.6.** Notwithstanding G.S. 143C-6-4(b), the Office of State Budget and Management may adjust the enacted budget by making transfers among purposes or programs for the sole purpose of correctly aligning authorized positions and associated operating costs with the appropriate purposes or programs as defined in G.S. 143C-1-1(d)(23). The Office of State Budget and Management shall change the authorized budget to reflect these adjustments. Under no circumstances shall total General Fund expenditures for a State department exceed the amount appropriated to that department from the General Fund for the fiscal year.

**SECTION 6.7.** Section 6 of S.L. 1999-2 reads as rewritten:

"Section 6. (a) Except as provided in subsection (b) of this section, it is the intent of the General Assembly that the funds under the Master Settlement Agreement, which is incorporated into the Consent Decree, be allocated as follows:

- (1) Fifty percent (50%) to the nonprofit corporation as provided by the Consent Decree.
- (2) Twenty five percent (25%) to a trust fund to be established by the General Assembly
- (3) Twenty five percent (25%) to a trust fund to be established by the General Assembly for the benefit of health, with this trust fund to be governed by a board of trustees comprised of a broad representation of health interests.
- (1) Debt service as authorized by the State Capital Facilities Act of 2004, Part 1 of S.L. 2004-179 and S.L. 2004-124. As soon as practicable after the beginning of each fiscal year, the State Treasurer shall estimate and transfer to Budget Code 69430 the amount of debt service anticipated to be paid during the fiscal year for special indebtedness authorized by the State Capital Facilities Act of 2004.
- (2) The sum of eight million dollars (\$8,000,000) is credited to Budget Code 69430 and shall be transferred to the University Cancer Research Fund in accordance with G .S. 116-29.1.
- (3) The balance remaining to be credited to the State General Fund to be used for the following purposes:
- (4) Any monies paid into the North Carolina State Specific Account from the Disputed Payments Account on account of the Non-Participating Manufacturers that would have been transferred to The Golden L.E.A.F. (Long-Term Economic Advancement Foundation), Inc., or to the trust funds established in accordance with subdivision (a)(2) of this section shall be deposited in the General Fund Account of the Settlement Reserve Fund.

(b) for the The benefit of tobacco producers, tobacco allotment holders, and persons engaged in tobacco-related businesses, with this trust fund to be governed by a board of trustees representing these interests. businesses. To carry out his purpose, this trust fund funds may provide direct and indirect financial assistance, in accordance with criteria established by the trustees of the trust fund and assistance, to the extent allowed by law, to (i) indemnify tobacco producers, allotment holders, and persons engaged in tobacco-related businesses from the adverse economic effects of the Master Settlement Agreement, (ii) compensate tobacco

1 producers and allotment holders for the economic loss resulting from lost quota, an (iii)  
2 revitalize tobacco dependent communities.

3 (c) The benefit of health to fund programs and initiatives that include research,  
4 education, prevention, and treatment of health problems in North Carolina and to increase the  
5 capacity of communities to respond to the public's health needs through programs such as  
6 Health Choice and the State's Medicaid program."

7 **SECTION 6.8.** The funds allocated in subdivision (2)a. of Section 6 of S.L. 1992,  
8 as rewritten by Section 6.7, are appropriated from the General Fund for fiscal years 2013-2014  
9 and 2014-2015 and shall be expended in accordance with the provisions of subdivision (2)a. of  
10 Section 6 of S.L. 1999-2, as amended by Section 6.7.

11 **SECTION 6.9.** Notwithstanding the provisions of G.S. 143-717(i), the  
12 administrative costs of the Tobacco Trust Fund shall not exceed six hundred twenty-five  
13 thousand dollars (\$625,000) for fiscal year 2013-2014 and fiscal year 2014-2015.

14 **SECTION 6.10.** The fifty percent (50%) of any monies paid into the North  
15 Carolina State Specific Account from the Disputed Payments Account on account of the  
16 Non-Participating Manufacturers that would have been transferred to The Golden L.E.A.F.  
17 (Long-Term Economic Advancement Foundation), Inc., pursuant to Section 2(b) of S.L.  
18 1999-2, is transferred to the General Fund Account within the Settlement Reserve Fund.

19 **SECTION 6.11.** The Attorney General shall take all necessary actions to notify the  
20 court in action entitled State of North Carolina v. Philip Morris Incorporated. et al., 98 CVS  
21 14377, in the General Court of Justice, Superior Court Division, Wake County, North Carolina,  
22 and the administrators of the State Specific Account established under the Master Settlement  
23 Agreement of this action by the General Assembly redirecting the payment set forth in Section  
24 6.10.

## 25 **PART VI-A. INFORMATION TECHNOLOGY**

### 26 **INFORMATION TECHNOLOGY FUND/AVAILABILITY**

27 **SECTION 6A.1.(a)** Appropriations are made from the Information Technology  
28 Fund for the 2011-2013 fiscal biennium as follows:

	FY 2013-2014	FY 2014-2015
Criminal Justice Information Network	\$ 189,563	\$ 189,563
Center for Geographic Information and Analysis	\$ 495,338	\$ 495,338
Enterprise Security Risk Management	\$ 1,112,894	\$ 1,112,894
Enterprise Project Management Office	\$ 1,692,401	\$ 1,692,401
Architecture and Engineering	\$ 900,340	\$ 900,340
State Web site	\$ 224,741	\$ 224,741
Enterprise Licenses	\$ 33,000	\$ 33,000
IT Consolidation	\$ 1,404,865	\$ 1,404,865
<b>Total Appropriation</b>	<b>\$ 6,053,142</b>	<b>\$6,053,142</b>

### 42 **ESTABLISH INFORMATION TECHNOLOGY RESERVE**

43 **SECTION 6A.2.(a)** There is appropriated in a statewide reserve the sum of  
44 thirty-five million dollars (\$35,000,000) for the 2013-2014 fiscal year, eight million dollars  
45 (\$8,000,000) of which shall be transferred from the E-Commerce Fund in the Department of  
46 Administration Budget Code 24100, Fund 2514, and thirty-two million dollars (\$32,000,000)  
47 for the 2014-2015 fiscal year. Notwithstanding any other provision of the law to the contrary,  
48 these funds may be used for the purpose of addressing critical statewide information  
49 technology infrastructure and security deficiencies and to provide additional resources to  
50 expand capacity for statewide information technology oversight and enterprise planning.  
51

1           **SECTION 6A.2.(b)** These funds shall be transferred to a nonreverting,  
2 interest-bearing special fund in the Office of the State Chief Information Officer. The Director  
3 of the Budget shall allocate these funds for purposes identified by the State Chief Information  
4 Officer and approved by the Director of the Budget. Prior to the disbursement of any funds, the  
5 State Chief Information Officer shall identify project and oversight requirements and submit  
6 them to the Director of the Budget for approval. The Office of State Budget and Management  
7 shall establish policies and procedures to be followed by the State Chief Information Officer in  
8 requesting allocation of funds, including a requirement for complete cost and benefit estimates  
9 for all projects.

#### 10 11 **USE OF E-COMMERCE FUNDS FOR INFORMATION TECHNOLOGY RESERVE**

12           **SECTION 6A.3.** For the 2013-2014 fiscal year, the sum of eight million dollars  
13 (\$8,000,000) shall be transferred from the E-Commerce Fund in the Department of  
14 Administration Budget Code 24100, Fund 2514, to the Information Technology Reserve.  
15 Notwithstanding any other provision of the law to the contrary, these funds may be used to  
16 address critical statewide information technology infrastructure and security deficiencies as  
17 approved by the State Budget Director and the State Chief Information Officer.

#### 18 19 **INFORMATION TECHNOLOGY OPERATIONS**

20           **SECTION 6A.4.(a)** Information Technology Internal Service Fund Budget. –  
21 Notwithstanding G.S. 147-33.88, the Office of Information Technology Services shall develop  
22 an annual budget for review and approval by the Office of State Budget and Management in  
23 accordance with a schedule prescribed by the Director of the Office of State Budget and  
24 Management. The approved Information Technology Internal Service Fund budget shall be  
25 included in the Governor's budget recommendations to the General Assembly.

26           The Office of State Budget and Management shall ensure that State agencies have  
27 an opportunity to adjust their budgets based on any rate changes proposed by the Office of  
28 Information Technology Services and approved by the Office of State Budget and  
29 Management.

30           Any uses of the Internal Service Fund not specifically related to the operation of the  
31 Office of Information Technology Services shall immediately be reported to the Office of State  
32 Budget and Management and the Fiscal Research Division with an explanation as to why it was  
33 necessary to use the Fund.

34           **SECTION 6A.4.(b)** Enterprise Projects. – The State Chief Information Officer  
35 shall consult the respective State agency chief information officer and obtain approval from the  
36 Office of State Budget and Management prior to the initiation of any enterprise project or  
37 contract. State agency requirements shall be incorporated into any enterprise agreement signed  
38 by the State Chief Information Officer or his or her representative. Enterprise projects shall not  
39 exceed the participating State agencies' ability to financially support the contracts.

40           **SECTION 6A.4.(c)** The State Chief Information Officer shall not enter into any  
41 information technology contracts without obtaining written agreements from participating State  
42 agencies regarding the apportionment of the contract cost. State agencies agreeing to participate  
43 in a contract shall:

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

49           The State Chief Information Officer shall ensure that enterprise project and contract  
50 costs are allocated to participating agencies in an equitable manner.



1           **SECTION 6A.4.(d)** Three-Year Contracts. – Notwithstanding the cash  
2 management provisions of G.S. 147-86.11, the Office of Information Technology Services may  
3 procure information technology goods and services for periods of up to a total of three years  
4 where the terms of the procurement contract require payment of all or a portion of the contract  
5 price at the beginning of the contract agreement. All of the following conditions shall be met  
6 before payment for these agreements may be disbursed:

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

18           The Office of State Budget and Management shall ensure the savings from any  
19 authorized agreement shall be included in the Information Technology Internal Service Fund  
20 rate calculations before the Office of State Budget and Management annually approves  
21 proposed rates. Any savings resulting from the agreements shall be returned to agencies  
22 included in the contract in the form of reduced rates.

23           **SECTION 6A.4.(e)** Service Level Agreements. – Service level agreements  
24 developed with supported State agencies shall include metrics for the Office of Information  
25 Technology Services as well as the supported agencies. When the Office of Information  
26 Technology Services or an agency fails to meet metrics established by the service level  
27 agreement, a report shall be provided to the Office of State Budget and Management and the  
28 Fiscal Research Division of the General Assembly within 10 days, detailing the shortfall and  
29 providing a corrective action plan with a time line.

30           **SECTION 6A.4.(f)** The Office of Information Technology Services shall assist  
31 State agencies in identifying the least expensive source and best value for the purchase of IT  
32 goods and services and shall ensure that agencies receive every available discount when  
33 purchasing IT goods and services. When the best value and the least expensive sources are  
34 different, the Office of Information Technology Services shall report to the Office of State  
35 Budget and Management and the Fiscal Research Division on why the least expensive vendor  
36 was not the best value.

37           **SECTION 6A.4.(g)** Agency Billing and Payments. – The State CIO shall ensure  
38 that bills from the Office of Information Technology Services are easily understood and fully  
39 transparent. If a State agency fails to pay its IT Internal Service Fund bills within 30 days of  
40 receipt, the Office of State Budget and Management may transfer funds from the agency to  
41 cover the cost of the bill from that agency to the IT Internal Service Fund.

## 42 43 **COORDINATION OF INFORMATION TECHNOLOGY REQUIREMENTS**

44           **SECTION 6A.5.** The State Chief Information Officer shall avoid the duplication of  
45 information technology capabilities and resources across State agencies. The State Chief  
46 Information Officer shall:

- 47           (1) Review all ongoing and future technology projects to determine whether the  
48           capabilities required for each project, or the specific requirements  
49           comprising a component within a project, already exist in a planned,  
50           ongoing, or completed information technology project developed by another  
51           State agency. Information Technology Procurement shall work to develop

1 contracts for information technology projects to allow the addition of other  
2 agencies' requirements within the terms of the existing contract.

3 (2) Identify existing projects that can best support a particular requirement for  
4 multiple agencies and work to transition agencies to those projects.

5 (3) When State agencies request approval for new projects, determine if the  
6 information technology project has transferable applicability to current or  
7 future capabilities required by another State agency.

8 (4) Upon identifying an existing information technology capability needed by a  
9 State agency, assist that agency in determining how best to access existing  
10 projects.

11 (5) Deny approval for any new project that duplicates existing capabilities  
12 within State agencies. If the State CIO determines that a project does not  
13 duplicate existing capabilities, the CIO must provide the reasons in writing.  
14

## 15 **COORDINATION OF GEOGRAPHIC INFORMATION SYSTEM REQUIREMENTS**

16 **SECTION 6A.6.** All State agencies shall coordinate any Geographic Information  
17 System (GIS) initiatives through the Center for Geographic Information and Analysis (CGIA)  
18 to ensure that they are not duplicating an existing function. The CGIA shall monitor and  
19 approve all new GIS-related information technology projects and expansion budget requests.  
20

## 21 **TAX INFORMATION MANAGEMENT SYSTEM/ADDITIONAL PUBLIC-PRIVATE** 22 **PARTNERSHIP AUTHORIZED**

23 **SECTION 6A.7.(a)** Additional Public-Private Partnership. – The Secretary of  
24 Revenue may enter into an additional public-private arrangement in order to expand the  
25 implementation of the Tax Information Management System (TIMS). All such arrangements  
26 will terminate June 30, 2018. The public-private arrangement may include terms necessary to  
27 implement additional revenue-increasing or cost-savings components if all of the following  
28 conditions are met:

29 (1) The funding of the project under the arrangement comes from revenue  
30 generated by or cost savings resulting from the project.

31 (2) The funding of the project is dependent on increased-revenue or cost-savings  
32 streams that are different from the existing benefits stream for the  
33 implementation of TIMS.

34 (3) The project involves additional identified initiatives that will be integrated  
35 into the TIMS solution.

36 **SECTION 6A.7.(b)** Contracts. – Work under an additional public-private  
37 arrangement that is authorized by this section may be contracted by requests for proposals,  
38 modifications to the existing contracts, purchases using existing contracts, or other related  
39 contract vehicles.

40 **SECTION 6A.7.(c)** Management/Performance Measurement. – The Secretary of  
41 Revenue shall follow the existing model for public-private arrangement oversight and shall  
42 establish a measurement process to determine the increased revenue or cost savings attributed  
43 to the additional public-private arrangement authorized by this section. To accomplish this, the  
44 Secretary shall consult subject matter experts in the Department of Revenue, in other  
45 governmental units, and in the private sector, as necessary. At a minimum, the measurement  
46 process shall include all of the following:

47 (1) Calculation of a revenue baseline against which the increased revenue  
48 attributable to the project is measured and a cost-basis baseline against  
49 which the cost savings resulting from the project are measured.

50 (2) Periodic evaluation to determine whether the baselines need to be modified  
51 based on significant measurable changes in the economic environment.

- 1 (3) Monthly calculation of increased revenue and cost savings attributable to  
2 contracts executed under this section.

3 **SECTION 6A.7.(d)** Internal Costs. – For the 2013-2015 biennium, the Department  
4 of Revenue may retain an additional sum of eight million eight hundred seventy-four thousand  
5 three hundred nineteen dollars (\$8,874,319) from benefits generated for the General Fund since  
6 the beginning of the public-private partnership described under Section 6A.5(a) of S.L.  
7 2011-145. These funds shall be used as payment of internal costs for the fiscal biennium, and  
8 such funds are hereby appropriated for this purpose.

9 **SECTION 6A.7.(e)** Expert Counsel Required. – Notwithstanding G.S. 114-2.3, the  
10 Department of Revenue shall engage the services of private counsel with the pertinent  
11 information technology and computer law expertise to negotiate and review contracts  
12 associated with an additional public-private arrangement authorized under this section.

13 **SECTION 6A.7.(f)** Oversight Committee. – The Oversight Committee established  
14 under Section 6A.5(c) of S.L. 2011-145 shall have the same responsibilities and duties with  
15 respect to an additional public-private arrangement authorized by this section as it does with  
16 respect to public-private arrangements to implement TIMS and the additional PDP components.

17 **SECTION 6A.7.(g)** Reporting. – Beginning August 1, 2013, and quarterly  
18 thereafter, the Department of Revenue shall submit detailed written reports to the Chairs of the  
19 House of Representatives and Senate Committees on Appropriations, to the Joint Legislative  
20 Oversight Committee on Information Technology, and to the Fiscal Research Division of the  
21 General Assembly. The report shall include an explanation of all of the following:

- 22 (1) Details of each public-private contract.  
23 (2) The benefits from each contract.  
24 (3) A comprehensive forecast of the benefits of using public-private agreements  
25 to implement TIMS, the additional PDP components, and additional  
26 components authorized by this section, including cost savings and the  
27 acceleration of the project time line.  
28 (4) Any issues associated with the operation of the public-private partnership.

29 **SECTION 6A.7.(h)** Information Technology Project Oversight. – In addition to the  
30 oversight provided by the Oversight Committee established in Section 6A.5(c) of S.L.  
31 2011-145, the additional public-private arrangement authorized by this section shall be subject  
32 to existing State information technology project oversight laws and statutes, and the project  
33 management shall comply with all statutory requirements and other criteria established by the  
34 State Chief Information Officer and the Office of State Budget and Management for  
35 information technology projects. The State Chief Information Officer and the Office of State  
36 Budget and Management shall immediately report any failure to do so to the Joint Legislative  
37 Oversight Committee on Information Technology, the Chairs of the House of Representatives  
38 and Senate Committees on Appropriations, and the Fiscal Research Division.

39 **SECTION 6A.7.(i)** Extension. – Section 6A.5(c) of S.L. 2011-145 reads as  
40 rewritten:

41 "SECTION 6A.5.(c) There is established within the Department of Revenue the Oversight  
42 Committee for reviewing and approving the benefits measurement methodology and  
43 calculation process. The Oversight Committee shall review and approve in writing all contracts,  
44 including change orders, amendments to contracts, and addendums to contracts, before they are  
45 executed under this section. This shall include (i) details of each public-private contract, (ii) the  
46 benefits from each contract, and (iii) a comprehensive forecast of the benefits of using  
47 public-private agreements to implement TIMS and the additional PDP components, including  
48 the measurement process established for the Secretary of Revenue. The Oversight Committee  
49 shall approve all of the fund transfers for this project. Within five days of entering into a  
50 contract, the Department shall provide copies of each contract and all associated information to  
51 the Joint Legislative Oversight Committee on Information Technology, the Chairs of the House

1 of Representatives and Senate Committees on Appropriations, and the Fiscal Research  
2 Division.

3 The members of the Committee shall include the following:

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

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

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

## 26 ENTERPRISE GRANTS MANAGEMENT

27 **SECTION 6A.8.** Section 6A.7(b2) of S.L. 2011-145, as amended by Section 6A.10  
28 of S.L. 2012-142, is repealed.  
29

## 30 DPI INFORMATION TECHNOLOGY OVERSIGHT CAPACITY

31 **SECTION 6A.9.** Notwithstanding G.S.°143C-6-4, the State Superintendent shall  
32 realign existing resources within the Department of Public Instruction to increase the  
33 information technology oversight capacity of the Department. The Superintendent shall identify  
34 resources to establish three new positions: a Chief Information Officer, a Chief Technology  
35 Officer, and a Project Management Officer by September 30, 2013. The realignment of the  
36 positions and resources is subject to the approval of the Office of State Budget and  
37 Management.  
38

## 39 PART VII. PUBLIC SCHOOLS

### 40 FUNDS FOR CHILDREN WITH DISABILITIES

41 **SECTION 7.1.** The State Board of Education shall allocate additional funds for  
42 children with disabilities on the basis of three thousand seven hundred forty-three dollars and  
43 forty-eight cents (\$3,743.48) per child. Each local school administrative unit shall receive funds  
44 for the lesser of (i) all children who are identified as children with disabilities or (ii) twelve and  
45 one-half percent (12.5%) of its 2013-2014 allocated average daily membership in the local  
46 school administrative unit. The dollar amounts allocated under this section for children with  
47 disabilities shall also adjust in accordance with legislative salary increments, retirement rate  
48 adjustments, and health benefit adjustments for personnel who serve children with disabilities.  
49  
50

### 51 FUNDS FOR ACADEMICALLY GIFTED CHILDREN

1           **SECTION 7.2.** The State Board of Education shall allocate additional funds for  
2 academically or intellectually gifted children on the basis of one thousand two hundred  
3 thirty-three dollars and one cent (\$1,233.01) per child for fiscal year 2013-2014 and 2014-2015.  
4 A local school administrative unit shall receive funds for a maximum of four percent (4%) of  
5 its 2013-2014 allocated average daily membership, regardless of the number of children  
6 identified as academically or intellectually gifted in the unit. The dollar amounts allocated  
7 under this section for academically or intellectually gifted children shall also adjust in  
8 accordance with legislative salary increments, retirement rate adjustments, and health benefit  
9 adjustments for personnel who serve academically or intellectually gifted children.

## 10 11 **USE OF SUPPLEMENTAL FUNDING IN LOW-WEALTH COUNTIES**

12           **SECTION 7.3.(a)** Use of Funds for Supplemental Funding. – All funds received  
13 pursuant to this section shall be used only (i) to provide instructional positions, instructional  
14 support positions, teacher assistant positions, clerical positions, school computer technicians,  
15 instructional supplies and equipment, staff development, and textbooks and (ii) for salary  
16 supplements for instructional personnel and instructional support personnel. Local boards of  
17 education are encouraged to use at least twenty-five percent (25%) of the funds received  
18 pursuant to this section to improve the academic performance of children who are performing  
19 at Level I or II on either reading or mathematics end-of-grade tests in grades 3-8 and children  
20 who are performing at Level I or II in grades 4 and 7.

21           **SECTION 7.3.(b)** Definitions. – As used in this section, the following definitions  
22 apply:

- 23           (1) "Anticipated county property tax revenue availability" means the  
24 county-adjusted property tax base multiplied by the effective State average  
25 tax rate.
- 26           (2) "Anticipated total county revenue availability" means the sum of the  
27 following:
- 28           a. Anticipated county property tax revenue availability.
- 29           b. Local sales and use taxes received by the county that are levied under  
30 Chapter 1096 of the 1967 Session Laws or under Subchapter VIII of  
31 Chapter 105 of the General Statutes.
- 32           c. Sales tax hold harmless reimbursement received by the county under  
33 G.S. 105-521.
- 34           d. Fines and forfeitures deposited in the county school fund for the most  
35 recent year for which data are available.
- 36           (3) "Anticipated total county revenue availability per student" means the  
37 anticipated total county revenue availability for the county divided by the  
38 average daily membership of the county.
- 39           (4) "Anticipated State average revenue availability per student" means the sum  
40 of all anticipated total county revenue availability divided by the average  
41 daily membership for the State.
- 42           (5) "Average daily membership" means average daily membership as defined in  
43 the North Carolina Public Schools Allotment Policy Manual, adopted by the  
44 State Board of Education. If a county contains only part of a local school  
45 administrative unit, the average daily membership of that county includes all  
46 students who reside within the county and attend that local school  
47 administrative unit.
- 48           (6) "County-adjusted property tax base" shall be computed as follows:
- 49           a. Subtract the present-use value of agricultural land, horticultural land,  
50 and forestland in the county, as defined in G.S. 105-277.2, from the  
51 total assessed real property valuation of the county.

- 1                   b.       Adjust the resulting amount by multiplying by a weighted average of  
2                   the three most recent annual sales assessment ratio studies.
- 3                   c.       Add to the resulting amount the following:
- 4                   1.       Present-use value of agricultural land, horticultural land, and  
5                   forestland, as defined in G.S. 105-277.2.
- 6                   2.       Value of property of public service companies, determined in  
7                   accordance with Article 23 of Chapter 105 of the General  
8                   Statutes.
- 9                   3.       Personal property value for the county.
- 10               (7)       "County-adjusted property tax base per square mile" means the  
11               county-adjusted property tax base divided by the number of square miles of  
12               land area in the county.
- 13               (8)       "County wealth as a percentage of State average wealth" shall be computed  
14               as follows:
- 15               a.       Compute the percentage that the county per capita income is of the  
16               State per capita income and weight the resulting percentage by a  
17               factor of five-tenths.
- 18               b.       Compute the percentage that the anticipated total county revenue  
19               availability per student is of the anticipated State average revenue  
20               availability per student and weight the resulting percentage by a  
21               factor of four-tenths.
- 22               c.       Compute the percentage that the county-adjusted property tax base  
23               per square mile is of the State-adjusted property tax base per square  
24               mile and weight the resulting percentage by a factor of one-tenth.
- 25               d.       Add the three weighted percentages to derive the county wealth as a  
26               percentage of the State average wealth.
- 27               (9)       "Effective county tax rate" means the actual county tax rate multiplied by a  
28               weighted average of the three most recent annual sales assessment ratio  
29               studies.
- 30               (10)       "Effective State average tax rate" means the average of effective county tax  
31               rates for all counties.
- 32               (11)       "Local current expense funds" means the most recent county current expense  
33               appropriations to public schools, as reported by local boards of education in  
34               the audit report filed with the Secretary of the Local Government  
35               Commission pursuant to G.S. 115C-447.
- 36               (12)       "Per capita income" means the average for the most recent three years for  
37               which data are available of the per capita income according to the most  
38               recent report of the United States Department of Commerce, Bureau of  
39               Economic Analysis, including any reported modifications for prior years as  
40               outlined in the most recent report.
- 41               (13)       "Sales assessment ratio studies" means sales assessment ratio studies  
42               performed by the Department of Revenue under G.S. 105-289(h).
- 43               (14)       "State average current expense appropriations per student" means the most  
44               recent State total of county current expense appropriations to public schools,  
45               as reported by local boards of education in the audit report filed with the  
46               Secretary of the Local Government Commission pursuant to G.S. 115C-447.
- 47               (15)       "State average adjusted property tax base per square mile" means the sum of  
48               the county-adjusted property tax bases for all counties divided by the  
49               number of square miles of land area in the State.
- 50               (16)       "Supplant" means to decrease local per student current expense  
51               appropriations from one fiscal year to the next fiscal year.

1 (17) "Weighted average of the three most recent annual sales assessment ratio  
2 studies" means the weighted average of the three most recent annual sales  
3 assessment ratio studies in the most recent years for which county current  
4 expense appropriations and adjusted property tax valuations are available. If  
5 real property in a county has been revalued one year prior to the most recent  
6 sales assessment ratio study, a weighted average of the two most recent sales  
7 assessment ratios shall be used. If property has been revalued the year of the  
8 most recent sales assessment ratio study, the sales assessment ratio for the  
9 year of revaluation shall be used.

10 **SECTION 7.3.(c) Eligibility for Funds.** – Except as provided in subsection (g) of  
11 this section, the State Board of Education shall allocate these funds to local school  
12 administrative units located in whole or in part in counties in which the county wealth as a  
13 percentage of the State average wealth is less than one hundred percent (100%).

14 **SECTION 7.3.(d) Allocation of Funds.** – Except as provided in subsection (f) of  
15 this section, the amount received per average daily membership for a county shall be the  
16 difference between the State average current expense appropriations per student and the current  
17 expense appropriations per student that the county could provide given the county's wealth and  
18 an average effort to fund public schools. (To derive the current expense appropriations per  
19 student that the county could be able to provide given the county's wealth and an average effort  
20 to fund public schools, multiply the county's wealth as a percentage of State average wealth by  
21 the State average current expense appropriations per student.) The funds for the local school  
22 administrative units located in whole or in part in the county shall be allocated to each local  
23 school administrative unit located in whole or in part in the county based on the average daily  
24 membership of the county's students in the school units. If the funds appropriated for  
25 supplemental funding are not adequate to fund the formula fully, each local school  
26 administrative unit shall receive a pro rata share of the funds appropriated for supplemental  
27 funding.

28 **SECTION 7.3.(e) Formula for Distribution of Supplemental Funding Pursuant to**  
29 **This Section Only.** – The formula in this section is solely a basis for distribution of  
30 supplemental funding for low-wealth counties and is not intended to reflect any measure of the  
31 adequacy of the educational program or funding for public schools. The formula is also not  
32 intended to reflect any commitment by the General Assembly to appropriate any additional  
33 supplemental funds for low-wealth counties.

34 **SECTION 7.3.(f) Minimum Effort Required.** – Counties that had effective tax  
35 rates in the 1996-1997 fiscal year that were above the State average effective tax rate but that  
36 had effective rates below the State average in the 1997-1998 fiscal year or thereafter shall  
37 receive reduced funding under this section. This reduction in funding shall be determined by  
38 subtracting the amount that the county would have received pursuant to Section 17.1(g) of  
39 Chapter 507 of the 1995 Session Laws from the amount that the county would have received if  
40 qualified for full funding and multiplying the difference by ten percent (10%). This method of  
41 calculating reduced funding shall apply one time only. This method of calculating reduced  
42 funding shall not apply in cases in which the effective tax rate fell below the statewide average  
43 effective tax rate as a result of a reduction in the actual property tax rate. In these cases, the  
44 minimum effort required shall be calculated in accordance with Section 17.1(g) of Chapter 507  
45 of the 1995 Session Laws. If the county documents that it has increased the per student  
46 appropriation to the school current expense fund in the current fiscal year, the State Board of  
47 Education shall include this additional per pupil appropriation when calculating minimum  
48 effort pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws.

49 **SECTION 7.3.(g) Nonsupplant Requirement.** – A county in which a local school  
50 administrative unit receives funds under this section shall use the funds to supplement local  
51 current expense funds and shall not supplant local current expense funds. For the 2013-2015

1 fiscal biennium, the State Board of Education shall not allocate funds under this section to a  
2 county found to have used these funds to supplant local per student current expense funds. The  
3 State Board of Education shall make a finding that a county has used these funds to supplant  
4 local current expense funds in the prior year, or the year for which the most recent data are  
5 available, if the following apply: (1) The current expense appropriation per student of the  
6 county for the current year is less than ninety-five percent (95%) of the average of the local  
7 current expense appropriations per student for the three prior fiscal years; and (2) The county  
8 cannot show (i) that it has remedied the deficiency in funding or (ii) that extraordinary  
9 circumstances caused the county to supplant local current expense funds with funds allocated  
10 under this section. The State Board of Education shall adopt rules to implement this section.

11 **SECTION 7.3.(h) Reports.** – The State Board of Education shall report to the Joint  
12 Legislative Education Oversight Committee prior to May 1, 2014, if it determines that counties  
13 have supplanted funds.

14 **SECTION 7.3.(i) Department of Revenue Reports.** – The Department of Revenue  
15 shall provide to the Department of Public Instruction a preliminary report for the current fiscal  
16 year of the assessed value of the property tax base for each county prior to March 1 of each  
17 year and a final report prior to May 1 of each year. The reports shall include for each county the  
18 annual sales assessment ratio and the taxable values of (i) total real property, (ii) the portion of  
19 total real property represented by the present-use value of agricultural land, horticultural land,  
20 and forestland, as defined in G.S. 105-277.2, (iii) property of public service companies  
21 determined in accordance with Article 23 of Chapter 105 of the General Statutes, and (iv)  
22 personal property.

## 23 24 **SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING**

25 **SECTION 7.4.(a) Funds for Small School Systems.** – Except as provided in  
26 subsection (b) of this section, the State Board of Education shall allocate funds appropriated for  
27 small school system supplemental funding (i) to each county school administrative unit with an  
28 average daily membership of fewer than 3,175 students and (ii) to each county school  
29 administrative unit with an average daily membership from 3,175 to 4,000 students if the  
30 county in which the local school administrative unit is located has a county-adjusted property  
31 tax base per student that is below the State-adjusted property tax base per student and if the  
32 total average daily membership of all local school administrative units located within the  
33 county is from 3,239 to 4,080 students. The allocation formula shall do all of the following:

- 34 (1) Round all fractions of positions to the next whole position.
- 35 (2) Provide five and one-half additional regular classroom teachers in counties  
36 in which the average daily membership per square mile is greater than four  
37 and provide seven additional regular classroom teachers in counties in which  
38 the average daily membership per square mile is four or fewer.
- 39 (3) Provide additional program enhancement teachers adequate to offer the  
40 standard course of study.
- 41 (4) Change the duty-free period allocation to one teacher assistant per 400  
42 average daily membership.
- 43 (5) Provide a base for the consolidated funds allotment of at least seven hundred  
44 seventeen thousand three hundred sixty dollars (\$717,360), excluding  
45 textbooks, for the 2013-2014 fiscal year and a base of seven hundred  
46 seventeen thousand three hundred sixty dollars (\$717,360) for the 2014-2015  
47 fiscal year.
- 48 (6) Allot vocational education funds for grade 6 as well as for grades 7-12. If  
49 funds appropriated for each fiscal year for small school system supplemental  
50 funding are not adequate to fully fund the program, the State Board of  
51 Education shall reduce the amount allocated to each county school



1 administrative unit on a pro rata basis. This formula is solely a basis for  
2 distribution of supplemental funding for certain county school administrative  
3 units and is not intended to reflect any measure of the adequacy of the  
4 educational program or funding for public schools. The formula also is not  
5 intended to reflect any commitment by the General Assembly to appropriate  
6 any additional supplemental funds for such county administrative units.

7 **SECTION 7.4.(b) Nonsupplant Requirement.** – A county in which a local school  
8 administrative unit receives funds under this section shall use the funds to supplement local  
9 current expense funds and shall not supplant local current expense funds. For the 2013-2015  
10 fiscal biennium, the State Board of Education shall not allocate funds under this section to a  
11 county found to have used these funds to supplant local per student current expense funds. The  
12 State Board of Education shall make a finding that a county has used these funds to supplant  
13 local current expense funds in the prior year, or the year for which the most recent data are  
14 available, if the following apply:

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

22 **SECTION 7.4.(c) Phase-Out Provisions.** – If a local school administrative unit  
23 becomes ineligible for funding under this formula because of (i) an increase in the population  
24 of the county in which the local school administrative unit is located or (ii) an increase in the  
25 county-adjusted property tax base per student of the county in which the local school  
26 administrative unit is located, funding for that unit shall be continued for seven years after the  
27 unit becomes ineligible.

28 **SECTION 7.4.(d) Definitions.** – As used in this section, the following definitions  
29 apply:

- 30 (1) "Average daily membership" means within two percent (2%) of the average  
31 daily membership as defined in the North Carolina Public Schools Allotment  
32 Policy Manual adopted by the State Board of Education.
- 33 (2) "County-adjusted property tax base per student" means the total assessed  
34 property valuation for each county, adjusted using a weighted average of the  
35 three most recent annual sales assessment ratio studies, divided by the total  
36 number of students in average daily membership who reside within the  
37 county.
- 38 (3) "Local current expense funds" means the most recent county current expense  
39 appropriations to public schools, as reported by local boards of education in  
40 the audit report filed with the Secretary of the Local Government  
41 Commission pursuant to G.S. 115C-447.
- 42 (4) "Sales assessment ratio studies" means sales assessment ratio studies  
43 performed by the Department of Revenue under G.S. 105-289(h).
- 44 (5) "State-adjusted property tax base per student" means the sum of all  
45 county-adjusted property tax bases divided by the total number of students in  
46 average daily membership who reside within the State.
- 47 (6) "Supplant" means to decrease local per student current expense  
48 appropriations from one fiscal year to the next fiscal year.
- 49 (7) "Weighted average of the three most recent annual sales assessment ratio  
50 studies" means the weighted average of the three most recent annual sales  
51 assessment ratio studies in the most recent years for which county current

1 expense appropriations and adjusted property tax valuations are available. If  
2 real property in a county has been revalued one year prior to the most recent  
3 sales assessment ratio study, a weighted average of the two most recent sales  
4 assessment ratios shall be used. If property has been revalued during the year  
5 of the most recent sales assessment ratio study, the sales assessment ratio for  
6 the year of revaluation shall be used.

7 **SECTION 7.4.(e) Reports.** – The State Board of Education shall report to the Joint  
8 Legislative Education Oversight Committee prior to May 1, 2014, if it determines that counties  
9 have supplanted funds.

10 **SECTION 7.4.(f) Use of Funds.** – Local boards of education are encouraged to use  
11 at least twenty percent (20%) of the funds they receive pursuant to this section to improve the  
12 academic performance of children who are performing at Level I or II on either reading or  
13 mathematics end-of-grade tests in grades 3-8.  
14

#### 15 **LITIGATION RESERVE FUNDS**

16 **SECTION 7.5.** The State Board of Education may expend up to five hundred  
17 thousand dollars (\$500,000) each year for the 2013-2014 and 2014-2015 fiscal years from  
18 unexpended funds for certified employees' salaries to pay expenses related to litigation.  
19

#### 20 **UNIFORM EDUCATION REPORTING SYSTEM (UERS) FUNDS**

21 **SECTION 7.6.(a)** Funds appropriated for the Uniform Education Reporting  
22 System shall not revert at the end of the 2012-2013 fiscal year. Funds appropriated for the  
23 Uniform Education Reporting System for the 2013-15 fiscal biennium shall not revert at the  
24 end of each fiscal year but shall remain available until expended.

25 **SECTION 7.6.(b)** This section becomes effective June 30, 2013.  
26

#### 27 **DISADVANTAGED STUDENT SUPPLEMENTAL FUNDING (DSSF)**

28 **SECTION 7.7.(a)** Funds appropriated for disadvantaged student supplemental  
29 funding shall be used, consistent with the policies and procedures adopted by the State Board of  
30 Education, only to:

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

38 The State Board of Education may require districts receiving funding under the  
39 Disadvantaged Student Supplemental Fund to purchase the Education Value Added  
40 Assessment System in order to provide in-depth analysis of student performance and help  
41 identify strategies for improving student achievement. This data shall be used exclusively for  
42 instructional and curriculum decisions made in the best interest of children and for professional  
43 development for their teachers and administrators.

44 **SECTION 7.7.(b)** Funds appropriated to a local school administrative unit for  
45 disadvantaged student supplemental funding shall be allotted based on (i) the local school  
46 administrative unit's eligible DSSF population and (ii) the difference between a  
47 teacher-to-student ratio of 1:21 and the following teacher-to-student ratios:

- 48 (1) For counties with wealth greater than ninety percent (90%) of the statewide  
49 average, a ratio of 1:19.9.
- 50 (2) For counties with wealth not less than eighty percent (80%) and not greater  
51 than ninety percent (90%) of the statewide average, a ratio of 1:19.4.

- 1 (3) For counties with wealth less than eighty percent (80%) of the statewide  
2 average, a ratio of 1:19.1.
- 3 (4) For LEAs receiving DSSF funds in 2005-2006, a ratio of 1:16. These LEAs  
4 shall receive no less than the DSSF amount allotted in 2006-2007 For the  
5 purpose of this subsection, wealth shall be calculated under the low-wealth  
6 supplemental formula.

7 **SECTION 7.7.(c)** If a local school administrative unit's wealth increases to a level  
8 that adversely affects the unit's DSSF allotment ratio, the DSSF allotment for that unit shall be  
9 maintained at the prior year level for one additional fiscal year.

#### 10 11 **LEA BUDGET ADJUSTMENT**

12 **SECTION 7.8.(a)** Within 14 days of the date this act becomes law, the State Board  
13 of Education shall notify each local school administrative unit and charter school of the amount  
14 the unit or charter school must reduce from the State General Fund appropriations. The State  
15 Board shall determine the amount of the reduction for each unit and charter school on the basis  
16 of average daily membership.

17 **SECTION 7.8.(b)** Each unit or charter school shall report to the Department of  
18 Public Instruction on the flexibility budget reductions it has identified for the unit within 30  
19 days of the date this act becomes law.

#### 20 21 **RESIDENTIAL SCHOOLS**

22 **SECTION 7.9.(a)** The Department of Public Instruction shall not transfer any  
23 school-based personnel from the residential schools to central office administrative positions.

24 **SECTION 7.9.(b)** Notwithstanding G.S. 146-30 or any other provision of law, the  
25 Department of Public Instruction shall retain all proceeds generated from the rental of building  
26 space on the residential school campuses. The Department of Public Instruction shall use all  
27 receipts generated from these leases to staff and operate the North Carolina School for the  
28 Deaf, the Eastern North Carolina School for the Deaf, and the Governor Morehead School.  
29 These receipts shall not be used to support administrative functions within the Department.

#### 30 31 **NORTH CAROLINA CENTER FOR THE ADVANCEMENT OF TEACHING**

32 **SECTION 7.10.(a)** G.S. 296.5 and G.S. 296.6. are repealed.

33 **SECTION 7.10.(b)** This section is effective June 30, 2013.

#### 34 35 **ASSESSMENT RESULTS REPORTING**

36 **SECTION 7.11.(a)** The State Board of Education shall report the results of the  
37 ACT and assessments aligned with the ACT annually by November 1 to the Office of State  
38 Budget and Management, the Fiscal Research Division, and the Joint Legislative Education  
39 Oversight Committee.

40 **SECTION 7.11.(b)** The report shall include aggregate results for each component  
41 of the ACT battery of assessments including Explore, Plan, ACT, and WorkKeys; identifying  
42 the number and percentage of students who receive scores indicating adequate preparation and  
43 the number and percentage of students who receive scores indicating less than adequate  
44 preparation to remain on track for graduation, college and a career.

45 **SECTION 7.11.(c)** The report should also include (1) a plan for data use and  
46 incorporation into the accountability model; (2) a description of local school administrative unit  
47 reporting requirements, and (3) a description of technical assistance provided by the department  
48 to local school administrative units including instructional practices to provide remediation for  
49 those students identified as not being on track as documented by assessment scores.

#### 50 51 **REPORT ON USE OF TEXTBOOK FUNDS FOR DIGITAL MATERIALS**

1           **SECTION 7.12.(a)** The State Board of Education shall report the types of digital  
2 purchases and expenditures by local school administrative units for digital instructional  
3 materials from the textbook allotment.

4           **SECTION 7.12.(b)** The report shall be submitted to the Office of State Budget and  
5 Management, the Fiscal Research Division, and the Joint Legislative Education Oversight  
6 Committee by March 1 of each year.

#### 7 8 **REVISE NCVPS COST CALCULATION DATE FOR LEAS**

9           **SECTION 7.13.** Section 7.22(d)(6) of S.L. 2011-145 reads as rewritten:

10           "(6) No later than February 28 of each year, calculate the actual instructional cost  
11 for each local school administrative unit and charter school based upon  
12 actual NCVPS enrollment as of that date."  
13

#### 14 **USE OF LOW WEALTH AND SMALL COUNTY FUNDS FOR EVAAS DATA**

15           **SECTION 7.14.** Notwithstanding the provisions of Section 7.12 of S.L. 2011-145  
16 and Section 7.6 of S.L. 2007-323, local school administrative units may utilize funds made  
17 available through the Low-Wealth School Funding and Small County Supplemental Funding to  
18 purchase services that allow for extraction of data from the Education Value Added  
19 Assessment System.  
20

#### 21 **LEA BUDGETARY FLEXIBILITY**

22           **SECTION 7.15.(a)** For fiscal years 2013-2014 and 2014-2015, the State Board of  
23 Education is authorized to extend its emergency rules, in accordance with G.S. 150B-21.1A,  
24 granting maximum flexibility to local school administrative units regarding the expenditure of  
25 State funds. These rules shall not be subject to the limitations on transfers of funds between  
26 funding allotment categories set out in G.S. 115C-105.25. However, these rules shall not permit  
27 the following transfers:

- 28           (1) The transfer of funds into central office administration.
- 29           (2) The transfer of funds from the classroom teacher allotment to any allotment  
30 other than teacher assistants allotment.
- 31           (3) The transfer of funds from the teacher assistant allotment to any allotment  
32 other than the classroom teachers allotment.

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

35           **SECTION 7.15.(b)** Local school administrative units may transfer funds for  
36 certified instructional support personnel for any purpose not otherwise prohibited by the State  
37 Board of Education's ABC transfer policy by submitting an ABC Transfer Form to the  
38 Department of Public Instruction. For funds related to certified instructional support personnel  
39 positions, the salary transferred shall be based on the first step of the "A" Teachers salary  
40 schedule. No local school administrative unit shall convert certified position allotments to  
41 dollars in order to hire the same type of position.

42           **SECTION 7.15.(c)** For fiscal years 2013-2014 and 2014-2015, local school  
43 administrative units shall make every effort to reduce spending whenever and wherever such  
44 budget reductions are appropriate, with the goal of protecting direct classroom services such as  
45 teacher assistants and classroom teachers. In making reductions, local school administrative  
46 units shall first consider reductions to central office administration and other administrative  
47 functions. Notwithstanding G.S. 115C-301 or any other law, local school administrative units  
48 shall have the maximum flexibility to use allotted teacher positions to maximize student  
49 achievement in grades 4-12. Class size requirements in grades K-3 shall remain unchanged.  
50

#### 51 **PART VIII. COMMUNITY COLLEGES**

**REORGANIZATION OF THE COMMUNITY COLLEGES SYSTEM OFFICE**

**SECTION 8.1.(a)** Notwithstanding any other provision of law, and consistent with the authority established in G.S. 115D-3, the President of the North Carolina Community College System may reorganize the System Office in accordance with recommendations and plans submitted to and approved by the State Board of Community Colleges.

**SECTION 8.1.(b)** This section expires June 30, 2014.

**CARRYFORWARD OF COLLEGE INFORMATION SYSTEM FUNDS**

**SECTION 8.2.** Of the funds appropriated to the Community Colleges System Office for the 2013-2015 fiscal biennium for the College Information System, up to one million two hundred and fifty thousand dollars (\$1,250,000) shall not revert at the end of each fiscal year but shall remain available until expended. These funds may be used only to purchase periodic system upgrades.

**BASIC SKILLS PLUS**

**SECTION 8.3.(a)** Notwithstanding any other provision of law, the State Board may authorize a local community college to use up to twenty percent (20%) of the State Literacy Funds allocated to it to provide employability skills, job-specific occupational and technical skills, and developmental education instruction to students concurrently enrolled in a community college course leading to a high school diploma or equivalent certificate.

**SECTION 8.3.(b)** Notwithstanding any other provision of law, if a community college is authorized by the State Board to provide employability skills, job-specific occupational or technical skills, or developmental education instruction, to students concurrently enrolled in a community college course leading to a high school diploma or equivalent certificate, the college may waive the tuition and registration fees associated with this instruction.

**COMMUNITY COLLEGE ENROLLMENT SHALL BE CALCULATED USING HIGHER OF CURRENT YEAR OR AVERAGE OF LAST TWO YEARS**

**SECTION 8.4.** Beginning with the 2013-2015 fiscal biennium, community colleges shall receive funding based on the number of full-time equivalent (FTE) students enrolled in curriculum, continuing education, and Basic Skills courses. Community colleges shall calculate this enrollment as the higher of the current year's total enrollment or the average enrollment of the last two academic years.

**REPEAL OF SENIOR CITIZEN TUITION WAIVER**

**SECTION 8.5.(a)** G.S. 115D-5(b)(11) is repealed.

**SECTION 8.5.(b)** This section is effective July 1, 2013.

**TECHNICAL EDUCATION INFRASTRUCTURE**

**SECTION 8.6.(a)** Of the funds appropriated in this act to the North Carolina Community College System, the sum of fourteen million (\$14 million) annually shall be used to enhance the equipment and facilities for technical education and health sciences programs funded in Tier 1A of the community college's funding formula. The State Board of Community Colleges shall award these funds to community colleges based on a competitive application. Factors the State Board should consider when making these awards should include, but are not limited to:

The impact on enrollment in the college's courses;

- (1) The ability of students completing credentials in those programs to gain employment in North Carolina;

(2) The contributions made by outside business and entities to these programs.

**SECTION 8.6.(b)** For the 2013-2015 fiscal biennium, community colleges receiving awards under subsection (a) may use these allocations to purchase equipment and make necessary repairs and renovations of existing facilities to accommodate program enhancements. Notwithstanding any other provision of law, community colleges are not required to match funds expended on repairs and renovations of existing facilities. Colleges must have capital improvement projects approved by the State Board of Community Colleges by May 31, 2015.

#### **NC BACK-TO-WORK FUNDS**

**SECTION 8.7.(a)** Of the funds appropriated in this act to the Community Colleges System Office for the 2013-2014 fiscal year, the sum of three million dollars (\$3,000,000) shall be used for the North Carolina Back-to-Work Program, a retraining program focused on unemployed and underemployed North Carolinians as well as military veterans and North Carolina National Guard members. The program shall provide students with occupational skills; employability skills, including a Career Readiness Certificate; and opportunities to earn third-party, industry-recognized credentials. Funds may only be allocated to colleges whose training plans include support for one or more of the following: employers who have committed to assist colleges with the design and implementation their training plans and interview program completers for available jobs; companies with registered apprenticeship programs with the North Carolina Department of Labor; coordinated projects among two or more colleges that focus on serving the needs of an industry cluster; or, programs developed in collaboration with the North Carolina National Guard or veteran organizations. Funds may only be used for the following activities: student instruction, student support and coaching, and targeted financial assistance for students, including assistance with tuition, registration fees, books, and certification costs.

**SECTION 8.7.(b)** Of the funds appropriated in this act to the Community Colleges System Office for the 2014-15 fiscal year, the sum of five million dollars (\$5,000,000) shall be used for the North Carolina Back-to-Work Program.

**SECTION 8.7.(c)** Of the funds appropriated in fiscal year 2012-2013 for the NC Back-to-Work program, funds shall not revert at the end of the fiscal year, but shall remain available for expenditure in fiscal year 2013-2014.

**SECTION 8.7.(d)** Subsection (c) of this section is effective June 30, 2013.

#### **EXPAND INDUSTRIAL AND ENGINEERING TECHNOLOGIES EDUCATION TO FRESHMEN AND SOPHOMORE HIGH SCHOOL STUDENTS**

**SECTION 8.9.** G.S. 115D-20 reads as rewritten:

**"§ 115D-20. Powers and duties of trustees.**

The trustees of each institution shall constitute the local administrative board of such institution, with such powers and duties as are provided in this Chapter and as are delegated to it by the State Board of Community Colleges. The powers and duties of trustees shall include the following:

...

(4) To apply the standards and requirements for admission and graduation of students and other standards established by the State Board of Community Colleges. Notwithstanding any law or administrative rule to the contrary, local community colleges are permitted to offer the following programs:

a. Subject to the approval of the State Board of Community Colleges, local community colleges may collaborate with local school administrative units to offer courses through the following programs:

1. Cooperative innovative high school programs as provided by Part 9 of Article 16 of Chapter 115C of the General Statutes.
2. Academic transition pathways for qualified junior and senior high school students that lead to a career technical education certificate or diploma and academic transition pathways for qualified freshman and sophomore high school students that lead to a career technical education certificate or diploma in industrial and engineering technologies.
3. College transfer certificates requiring the successful completion of thirty semester credit hours of transfer courses, including English and mathematics, for qualified junior and senior high school students.

...."

#### **CLARIFY EMPLOYEE ACADEMIC ASSISTANCE**

**SECTION 8.10.** G.S. 115D-5(b1) reads as rewritten:

"(b1) The State Board of Community Colleges shall not waive tuition and registration fees for community college faculty or staff members. Community colleges may, however, use State or local funds to pay tuition and registration fees for one course per semester for full-time community college faculty or staff members employed for a nine-, ten-, eleven-, or twelve-month term. Notwithstanding this limitation, colleges may use State funds to support college employee academic assistance programs that are consistent with the academic assistance policy adopted by the State Personnel Commission under the provisions of G.S. 126-4.

#### **IMPLEMENTATION OF PERFORMANCE-BASED FUNDING FOR THE NORTH CAROLINA COMMUNITY COLLEGE SYSTEM AND THE UNIVERSITY OF NORTH CAROLINA**

**SECTION 8.11.(a)** Notwithstanding any other provision of law, for the 2013-2014 fiscal year, the State Board of Community Colleges and the UNC Board of Governors may allocate performance-based funding consistent with the models they have developed.

**SECTION 8.11.(b)** The Education Cabinet shall conduct a study of performance-based funding models. This study shall include the analysis of the models funded under (a) of this section as well as funding the higher education systems based on outcomes. These outcomes shall include, but are not limited to, the employment status of their graduates. The Education Cabinet shall report their recommendations to the Governor and the Joint Legislative Education Oversight Committee no later than March 1, 2014.

**SECTION 8.11.(c)** Recommendations on performance-based funding made under (b) of this section shall be considered for implementation effective July 1, 2014.

**SECTION 8.12.** G.S. 115D-40.1(b) reads as rewritten:

"(b) Targeted Assistance. – ~~Notwithstanding subsection (a) of this section, the~~ The State Board may allocate no more than ten percent (10%) of the funds appropriated for Financial Assistance for Community College Students to:

- (1) Students who ~~do not qualify for need-based assistance but who~~ demonstrate financial need and enroll in low-enrollment programs that prepare students for high-demand occupations, and
- (2) Students with disabilities who have been referred by the Division of Vocational Rehabilitation and are enrolled in a community college."

#### **PART IX. UNIVERSITIES**

**UNC MANAGEMENT FLEXIBILITY REDUCTION**

**SECTION 9.1.(a)** The management flexibility reduction for The University of North Carolina shall not be allocated by the Board of Governors to the constituent institutions and affiliated entities using an across-the-board method but in a manner that recognizes the importance of the academic mission and differences among The University of North Carolina entities.

Before taking reductions in instructional budgets, the Board of Governors and the campuses of the constituent institutions shall consider all of the following:

- (1) Reducing State funding for centers and institutes, speaker series, and other nonacademic activities.
- (2) Faculty workload adjustments.
- (3) Restructuring of research activities.
- (4) Implementing cost-saving span of control measures.
- (5) Reducing the number of senior and middle management positions.
- (6) Eliminating low-performing, redundant, or low-enrollment programs.
- (7) Using alternative funding sources.
- (8) Protecting direct classroom services.

The Board of Governors and the campuses of the constituent institutions also shall review the institutional trust funds and the special funds held by or on behalf of The University of North Carolina and its constituent institutions to determine whether there are monies available in those funds that can be used to assist with operating costs. In addition, the campuses of the constituent institutions also shall require their faculty to have a teaching workload equal to the national average in their Carnegie classification.

**SECTION 9.1.(b)** In allocating the management flexibility reduction, no reduction in State funds shall be allocated in either fiscal year of the 2013-2015 biennium to any of the following:

- (1) UNC Need-Based Financial Aid.
- (2) North Carolina Need Based Scholarship.

**SECTION 9.1.(c)** The University of North Carolina shall report on the implementation of the management flexibility reduction in Section 9.1.(a) to the Office of State Budget and Management and the Fiscal Research Division no later than October 1, 2013. This report shall identify by campus:

- (1) the total number of positions eliminated by type (faculty/non-faculty);
- (2) low-performing, redundant, and low-enrollment programs that were eliminated.

**CHANCELLORS OF CONSTITUENT INSTITUTIONS TO APPROVE EMERGENCY REPAIRS AND MAINTENANCE PROJECTS WITH AVAILABLE OPERATING FUNDS**

**SECTION 9.2.** G.S. 116-13.1(c) reads as rewritten:

"(c) Approval of Certain Emergency Repair and Maintenance Projects. – Notwithstanding G.S. 143C-8-7, when necessary to ensure public safety, the chancellor of a constituent institution may approve the expenditure of available operating funds in an amount not to exceed one million dollars (\$1,000,000) per project for repairs to institution facilities, renovations to institution facilities, maintenance of those facilities, repairs, renovations, maintenance, and related equipment purchases related to institution facilities supported entirely by the General Fund. Funds contractually obligated to an approved project shall not revert at the end of the fiscal year and will remain available to fund the completion of the project. Projects approved pursuant to this subsection shall in all other respects accord with applicable laws governing capital improvement projects. Funds authorized under this subsection shall be transferred to the capital fund before expenditure and shall be in accord with applicable laws



1 governing capital improvement projects. By September 1, 2013 and annually thereafter, the  
2 Board of Governors shall report on all projects authorized under this subsection to the Office of  
3 State Budget and Management and the Fiscal Research Division."  
4

#### 5 **USE OF ESCHEAT FUND FOR NEED-BASED FINANCIAL AID PROGRAMS**

6 **SECTION 9.3.(a)** There is appropriated from the Escheat Fund income to the  
7 Board of Governors of The University of North Carolina the sum of thirty-eight million three  
8 hundred seventy-five thousand eight hundred sixty-nine dollars (\$38,375,869) for the  
9 2013-2014 fiscal year and the sum of thirty-seven million two hundred eighty-seven thousand  
10 two hundred forty-two dollars (\$37,287,242) for the 2014-2015 fiscal year to be used for The  
11 University of North Carolina Need-Based Financial Aid Program.

12 **SECTION 9.3.(b)** There is appropriated from the Escheat Fund income to the State  
13 Board of Community Colleges the sum of fifteen million four hundred eleven thousand three  
14 hundred seventy-three dollars (\$15,411,373) for the 2013-2014 fiscal year and the sum of  
15 sixteen million five hundred thousand dollars (\$16,500,000) for the 2014-2015 fiscal year to be  
16 used for community college grants.

17 **SECTION 9.3.(c)** There is appropriated from the Escheat Fund income to the  
18 Department of Administration, Division of Veterans Affairs, the sum of six million five  
19 hundred twenty thousand nine hundred sixty-four dollars (\$6,520,964) for the 2013-2014 fiscal  
20 year and the sum of six million five hundred twenty thousand nine hundred sixty-four dollars  
21 (\$6,520,964) for the 2014-2015 fiscal year to be used for need-based student financial aid.

22 **SECTION 9.3.(d)** The funds appropriated by this section shall be allocated by the  
23 State Educational Assistance Authority (SEAA) for need-based student financial aid in  
24 accordance with G.S. 116B-7. If the interest income generated from the Escheat Fund is less  
25 than the amounts referenced in this section, the difference may be taken from the Escheat Fund  
26 principal to reach the appropriations referenced in this section; however, under no  
27 circumstances shall the Escheat Fund principal be reduced below the sum required in  
28 G.S. 116B-6(f). If any funds appropriated under this section remain uncommitted for  
29 need-based financial aid as of the end of a fiscal year, the funds shall be returned to the Escheat  
30 Fund, but only to the extent the funds exceed the amount of the Escheat Fund income for that  
31 fiscal year.

32 **SECTION 9.3.(e)** The State Education Assistance Authority shall perform all of  
33 the administrative functions necessary to implement this program of financial aid. The SEAA  
34 shall conduct periodic evaluations of expenditures of the scholarship programs to determine if  
35 allocations are utilized to ensure access to institutions of higher learning and to meet the goals  
36 of the respective programs. SEAA may make recommendations for redistribution of funds to  
37 The University of North Carolina, Department of Administration, and the President of the  
38 Community College System regarding their respective scholarship programs, who then may  
39 authorize redistribution of unutilized funds for a particular fiscal year.  
40

#### 41 **REPEAL UNC TUITION WAIVERS FOR NONRESIDENT STUDENTS RECEIVING** 42 **FULL SCHOLARSHIPS**

43 **SECTION 9.4.(a)** G.S. 116-143.6 is repealed.

44 **SECTION 9.4.(b)** This section becomes effective June 30, 2013.  
45

#### 46 **REDUCE UTILITY BUDGETS**

47 **SECTION 9.5.** Notwithstanding G.S. 116-30.3B and any other law to the contrary,  
48 appropriations from the General Fund for campus utility budgets are reduced by the sum of  
49 eight million eighty-eight thousand seven hundred nineteen dollars (\$8,088,719) for the  
50 2013-2014 and 2014-2015 fiscal years.  
51

**RESTORE THE NORTH CAROLINA SCHOOL OF SCIENCE AND MATH TUITION GRANT**

**SECTION 9.6.(a)** Section 9.6.(b) of Session Law 2009-451 is repealed.

**SECTION 9.6.(b)** G.S. 116-238.1(a) reads as rewritten:

"(a) There is granted to each State resident who graduates from the North Carolina School of Science and Mathematics and who enrolls as a full-time student in a constituent institution of The University of North Carolina a sum to be determined by the General Assembly as a tuition grant. The tuition grant shall be for four consecutive academic years and shall cover the tuition cost at the constituent institution in which the student is enrolled. The tuition grant shall be distributed to the student as provided by this section. The grant provided by this section is only available to a student enrolled at the North Carolina School of Science and Mathematics for the 2008-2009 academic year or ~~earlier~~ the 2013-2014 academic year and thereafter."

**UNIVERSITY CANCER RESEARCH FUND**

**SECTION 9.7.(a)** In accordance with G.S. 105-113.40A, there is appropriated from the Tax on Other Tobacco Products the sum of twenty four million four hundred thirteen thousand two hundred dollars (\$24,413,200) for the 2013-2014 fiscal year and the sum of twenty four million seven hundred fourteen thousand eight hundred ninety-two (\$24,714,892) for the 2014-15 fiscal year to the University Cancer Research Fund. These funds shall be reflected in the certified budget of Budget Code 16011.

**SECTION 9.7.(b)** In accordance with G.S. 116.29.1, there is appropriated from Budget Code 69430 in the Department of State Treasurer, the sum of eight million dollars (\$8,000,000) in each fiscal year of the 2013-2015 biennium to the University Cancer Research Fund. These funds shall be reflected in the certified budget of Budget Code 16011.

**UNC BOARD OF GOVERNORS REPORT ON OVERHEAD RECEIPTS**

**SECTION 9.8.** Section 31.14 of S.L. 2001-424 is amended to read:

**"SECTION 31.14.** The Board of Governors of The University of North Carolina shall report to the Joint Legislative Education Oversight Committee and the Office of State Budget and Management by March 1, 2002, March 1, 2014 and annually thereafter, on the amount of facilities and administrative fees and overhead receipts for The University System ~~and the use of those receipts collected and expended by each institution. The report shall reflect the collections of facilities and administrative fees and overhead receipts by line item and by grant or program. The report shall also reflect the use of facilities and administrative fees and overhead receipts showing line item expenditures by grant or program. The report shall also include the amount of facilities and administrative fees and overhead receipts collected or expended by each institution for maintenance and operation of facilities that were constructed or at any time operated by the General Fund.~~"

**PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES****FLEXIBILITY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO MOVE POSITIONS TO MEET DEPARTMENTAL PRIORITIES**

**SECTION 10.1.(a)** Notwithstanding any other provision of law, and consistent with the intent of G.S. 143B-10, the Secretary of the Department of Health and Human Services may reorganize positions and related operational costs within the Department when cost-effectiveness can be demonstrated. Actions under this section may only be implemented after the Office of State Budget and Management has approved a proposal submitted by the Department. Proposals under this section shall include, at a minimum, the positions involved and strategies to achieve efficiencies

1           **SECTION 10.1.(b)** The Department shall report on any actions under this section  
2 to the House of Representatives Appropriations Subcommittee on Health and Human Services,  
3 the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research  
4 Division. The report shall include the positions involved and strategies to achieve efficiencies.  
5 The report is due to the House and Senate Appropriations Subcommittees on Health and  
6 Human Services and the Fiscal Research Division not later than June 30, 2014.

#### 7 8 **DHHS INTERNAL AUDIT CAPACITY**

9           **SECTION 10.2.** Notwithstanding G.S. 143C-6-4, the Secretary of the Department  
10 of Health and Human Services, to enhance the fiscal oversight and accountability, may realign  
11 existing resources to increase the internal audit capacity of the department. The Secretary is  
12 authorized to identify up to 32 existing positions for this purpose. The expanded Office of  
13 Internal Audit will provide DHHS management independent reviews and analysis of various  
14 functions and services within the department, including operational audits, performance audits,  
15 compliance audits, financial audits and other special reviews. The realignment of the positions  
16 and resources is subject to the approval of the Office of State Budget and Management.

#### 17 18 **CHILD CARE SUBSIDY RATES**

19           **SECTION 10.3.(a)** The maximum gross annual income for initial eligibility,  
20 adjusted biennially, for subsidized child care services shall be seventy-five percent (75%) of the  
21 State median income, adjusted for family size.

22           **SECTION 10.3.(b)** Fees for families who are required to share in the cost of care  
23 shall be established based on a percent of gross family income and adjusted for family size.  
24 Fees shall be determined as follows:

#### 25 **FAMILY SIZE PERCENT OF GROSS FAMILY INCOME**

26 <b>1-3</b>	<b>10%</b>
27 <b>4-5</b>	<b>9%</b>
28 <b>6 or more</b>	<b>8%.</b>

29           **SECTION 10.3.(c)** Payments for the purchase of child care services for  
30 low-income children shall be in accordance with the following requirements:

- 31           (1) Religious-sponsored child care facilities operating pursuant to G.S. 110-106  
32 and licensed child care centers and homes that meet the minimum licensing  
33 standards that are participating in the subsidized child care program shall be  
34 paid the one-star county market rate or the rate they charge privately paying  
35 parents, whichever is lower, unless prohibited by Section 10.7(g) of this act.
- 36           (2) Licensed child care centers and homes with two or more stars shall receive  
37 the market rate for that rated license level for that age group or the rate they  
38 charge privately paying parents, whichever is lower, unless prohibited by  
39 Section 10.7(g) of this act.
- 40           (3) Non-licensed homes shall receive fifty percent (50%) of the county market  
41 rate or the rate they charge privately paying parents, whichever is lower.
- 42           (4) No payments shall be made for transportation services or registration fees  
43 charged by child care facilities.
- 44           (5) Payments for subsidized child care services for postsecondary education  
45 shall be limited to a maximum of 20 months of enrollment.
- 46           (6) The Department of Health and Human Services shall implement necessary  
47 rule changes to restructure services, including, but not limited to, targeting  
48 benefits to employment.

49           **SECTION 10.3.(d)** Provisions of payment rates for child care providers in counties  
50 that do not have at least 50 children in each age group for center-based and home-based care  
51 are as follows:

- 1 (1) Except as applicable in subdivision (2) of this subsection, payment rates  
2 shall be set at the statewide or regional market rate for licensed child care  
3 centers and homes.
- 4 (2) If it can be demonstrated that the application of the statewide or regional  
5 market rate to a county with fewer than 50 children in each age group is  
6 lower than the county market rate and would inhibit the ability of the county  
7 to purchase child care for low-income children, then the county market rate  
8 may be applied.

9 **SECTION 10.3.(e)** A market rate shall be calculated for child care centers and  
10 homes at each rated license level for each county and for each age group or age category of  
11 enrollees and shall be representative of fees charged to parents for each age group of enrollees  
12 within the county. The Division of Child Development shall also calculate a statewide rate and  
13 regional market rates for each rated license level for each age category.

14 **SECTION 10.3.(f)** Facilities licensed pursuant to Article 7 of Chapter 110 of the  
15 General Statutes and facilities operated pursuant to G.S. 110-106 may participate in the  
16 program that provides for the purchase of care in child care facilities for minor children of  
17 needy families. Except as authorized by Section 10.7(g) of this act, no separate licensing  
18 requirements shall be used to select facilities to participate. In addition, child care facilities  
19 shall be required to meet any additional applicable requirements of federal law or regulations.  
20 Child care arrangements exempt from State regulation pursuant to Article 7 of Chapter 110 of  
21 the General Statutes shall meet the requirements established by other State law and by the  
22 Social Services Commission.

23 County departments of social services or other local contracting agencies shall not use a  
24 provider's failure to comply with requirements in addition to those specified in this subsection  
25 as a condition for reducing the provider's subsidized child care rate.

26 **SECTION 10.3.(g)** Payment for subsidized child care services provided with Work  
27 First Block Grant funds shall comply with all regulations and policies issued by the Division of  
28 Child Development for the subsidized child care program.

29 **SECTION 10.3.(h)** Noncitizen families who reside in this State legally shall be  
30 eligible for child care subsidies if all other conditions of eligibility are met. If all other  
31 conditions of eligibility are met, noncitizen families who reside in this State illegally shall be  
32 eligible for child care subsidies only if at least one of the following conditions is met:

- 33 (1) The child for whom a child care subsidy is sought is receiving child  
34 protective services or foster care services.
- 35 (2) The child for whom a child care subsidy is sought is developmentally  
36 delayed or at risk of being developmentally delayed.
- 37 (3) The child for whom a child care subsidy is sought is a citizen of the United  
38 States.

39 **SECTION 10.3.(i)** Department of Health and Human Services, Division of Child  
40 Development and Early Education, shall require all county departments of social services to  
41 include on any forms used to determine eligibility for child care subsidy whether the family  
42 waiting for subsidy is receiving assistance through the NC Pre-K program or Head Start.

#### 43 44 **CHILD CARE ALLOCATION FORMULA/DIRECTION**

45 **SECTION 10.4.(a)** The Department of Health and Human Services shall allocate  
46 child care subsidy voucher funds to pay the costs of necessary child care for minor children of  
47 needy families. The mandatory thirty percent (30%) Smart Start subsidy allocation under  
48 G.S. 143B-168.15(g) shall constitute the base amount for each county's child care subsidy  
49 allocation. The Department of Health and Human Services shall use the following method  
50 when allocating federal and State child care funds, not including the aggregate mandatory thirty  
51 percent (30%) Smart Start subsidy allocation:

- 1 (1) Funds shall be allocated to a county based upon the projected cost of serving  
2 children under age 11 in families with all parents working who earn less than  
3 seventy-five percent (75%) of the State median income.  
4 (2) No county's allocation shall be less than ninety percent (90%) of its State  
5 fiscal year 2001-2002 initial child care subsidy allocation.  
6 (3) For fiscal year 2013-2014, the Division of Child Development and Early  
7 Education shall base the formula identified in subdivision (1) of this  
8 subsection on the same data source used for the 2012-2013 fiscal year.  
9 (4) The Department of Health and Human Services shall allocate to counties all  
10 State funds appropriated for child care subsidy and shall not withhold funds  
11 during the 2013-2014 fiscal year.

12 **SECTION 10.4.(b)** The Department of Health and Human Services may reallocate  
13 unused child care subsidy voucher funds in order to meet the child care needs of low-income  
14 families. Any reallocation of funds shall be based upon the expenditures of all child care  
15 subsidy voucher funding, including Smart Start funds, within a county.  
16

### 17 **CHILD CARE FUNDS MATCHING REQUIREMENT**

18 **SECTION 10.5.** No local matching funds may be required by the Department of  
19 Health and Human Services as a condition of any locality's receiving its initial allocation of  
20 child care funds appropriated by this act unless federal law requires a match. If the Department  
21 reallocates additional funds above twenty-five thousand dollars (\$25,000) to local purchasing  
22 agencies beyond their initial allocation, local purchasing agencies must provide a twenty  
23 percent (20%) local match to receive the reallocated funds. Matching requirements shall not  
24 apply when funds are allocated because of a disaster as defined in G.S. 166A-4(1).  
25

### 26 **CHILD CARE REVOLVING LOAN**

27 **SECTION 10.6.** Notwithstanding any law to the contrary, funds budgeted for the  
28 Child Care Revolving Loan Fund may be transferred to and invested by the financial institution  
29 contracted to operate the Fund. The principal and any income to the Fund may be used to make  
30 loans, reduce loan interest to borrowers, serve as collateral for borrowers, pay the contractor's  
31 cost of operating the Fund, or pay the Department's cost of administering the program.  
32

### 33 **ADMINISTRATIVE ALLOWANCE FOR COUNTY DEPARTMENTS OF SOCIAL 34 SERVICES**

35 **SECTION 10.7.** The Division of Child Development and Early Education of the  
36 Department of Health and Human Services shall fund the allowance that county departments of  
37 social services may use for administrative costs at three percent (3%) of the county's total child  
38 care subsidy funds allocated in the Child Care Development Fund Block Grant plan.  
39

### 40 **NC PRE-K**

41 **SECTION 10.8.(a)** The Division of Child Development and Early Education shall  
42 require the NC Pre-K contractor to issue multiple-year contracts for licensed private child care  
43 centers providing NC Pre-K classrooms.

44 **SECTION 10.8.(b)** The Division of Child Development and Early Education  
45 (Division) shall create a pilot program that provides funding for NC Pre-K classrooms on a per  
46 classroom basis. The pilot program shall include three different NC Pre-K contractual regions  
47 that are geographically diverse. The local NC Pre-K administrator shall contract with the  
48 provider for operation of a classroom established pursuant to the pilot program. The Division  
49 shall provide an interim report on the status of the pilot program development to the House of  
50 Representatives Appropriations Subcommittee on Health and Human Services, the Senate  
51 Appropriations/Base Budget Committee on Health and Human Services, and the Fiscal

1 Research Division on the pilot program no later than May 1, 2013 and a final report by January  
2 31, 2014. The report shall include the following:

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

12 **SECTION 10.8.(c)** The Division of Child Development and Early Education shall  
13 continue the implementation of the NC Pre-K program. The NC Pre-K program shall serve  
14 children who reach the age of four on or before August 31 of that school year and who meet  
15 eligibility criteria.

16 **SECTION 10.8.(d)** The Division of Child Development and Early Education shall  
17 establish income eligibility requirements for the program not to exceed one hundred thirty  
18 percent (130%) of the Federal Poverty Level, and eligibility for any age-eligible child who has  
19 one or more of the following: identified developmental disability; Limited English Proficiency  
20 (LEP); an educational need as indicated by the child's performance results on an approved  
21 developmental screening; an active duty member of the Armed Forces of the United States,  
22 including the North Carolina National Guard, State military forces, or a reserve component of  
23 the Armed Forces, who was ordered to active duty by the proper authority within the last 18  
24 months or is expected to be ordered within the next 18 months; or a member of the Armed  
25 Forces of the United States, including the North Carolina National Guard, State military forces,  
26 or a reserve component of the Armed Forces, who was injured or killed while serving on active  
27 duty.

28 **SECTION 10.8.(e)** Other than developmental disabilities or other chronic health  
29 issues, the Division of Child Development and Early Education shall not consider the health of  
30 a child as a factor in determining eligibility for participation in the NC Pre-K program.

31 **SECTION 10.8.(f)** All entities operating NC Pre-K classrooms shall adhere to all  
32 of the policies prescribed by the Division of Child Development and Early Education regarding  
33 programmatic standards and classroom requirements.

34 **SECTION 10.8.(g)** The Division of Child Development and Early Education shall  
35 establish a standard decision-making process to be used by local NC Pre-K committees in  
36 awarding NC Pre-K classroom slots and student selection.

37 **SECTION 10.8.(h)** The Division of Child Development and Early Education shall  
38 submit an annual report no later than March 15 of each year to the Joint Legislative  
39 Commission on Governmental Operations, the Joint Legislative Oversight Committee on  
40 Health and Human Services, the Senate Appropriations Committee on Health and Human  
41 Services, the House of Representatives Appropriations Subcommittee on Health and Human  
42 Services, the Office of State Budget and Management, and the Fiscal Research Division. The  
43 report shall include the following:

- 44 (1) The number of children participating in the NC Pre-K program.
- 45 (2) The number of children participating in the NC Pre-K program who have  
46 never been served in other early education programs, such as child care,  
47 public or private preschool, Head Start, Early Head Start, or early  
48 intervention programs.
- 49 (3) The expected NC Pre-K expenditures for the programs and the source of the  
50 local contributions.
- 51 (4) The results of an annual evaluation of the NC Pre-K program.

1  
2 **EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES**  
3 **ENHANCEMENTS/SALARY SCHEDULE/MATCH REQUIREMENT**  
4 **ADJUSTMENTS**

5 **SECTION 10.9.(a)** Administrative costs shall be equivalent to, on an average  
6 statewide basis for all local partnerships, not more than eight percent (8%) of the total statewide  
7 allocation to all local partnerships. For purposes of this subsection, administrative costs shall  
8 include costs associated with partnership oversight, business and financial management,  
9 general accounting, human resources, budgeting, purchasing, contracting, and information  
10 systems management. The North Carolina Partnership for Children, Inc., shall develop a single  
11 statewide contract management system that incorporates features of the required standard fiscal  
12 accountability plan described in G.S. 143B-168.12(a)(4). All local partnerships shall be  
13 required to participate in the contract management system and shall be directed by the North  
14 Carolina Partnership for Children, Inc., to collaborate, to the fullest extent possible, with other  
15 local partnerships to increase efficiency and effectiveness.

16 **SECTION 10.9.(b)** The North Carolina Partnership for Children, Inc., shall  
17 develop and implement a salary schedule for the Executive Director of the North Carolina  
18 Partnership for Children, Inc., and the directors of local partnerships. The salary schedule shall  
19 set the maximum amount of State funds that may be used for the salary of the Executive  
20 Director of the North Carolina Partnership for Children, Inc., and the directors of the local  
21 partnerships. In establishing a salary schedule, the North Carolina Partnership for Children,  
22 Inc., shall base the schedule on the following criteria:

- 23 (1) The population of the area serviced by a local partnership.
- 24 (2) The amount of State funds administered.
- 25 (3) The amount of total funds administered.
- 26 (4) The professional experience of the individual to be compensated.
- 27 (5) Any other relevant factors pertaining to salary, as determined by the North  
28 Carolina Partnership for Children, Inc.

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

33 **SECTION 10.9.(c)** The North Carolina Partnership for Children, Inc., and all local  
34 partnerships shall, in the aggregate, be required to match one hundred percent (100%) of the  
35 total amount budgeted for the program in each fiscal year of the biennium. Of the funds the  
36 North Carolina Partnership for Children, Inc., and the local partnerships are required to match,  
37 contributions of cash shall equal to at least ten percent (10%) and in-kind donated resources  
38 equal to no more than three percent (3%) for a total match requirement of thirteen percent  
39 (13%) for each fiscal year. The North Carolina Partnership for Children, Inc., may carry  
40 forward any amount in excess of the required match for a fiscal year in order to meet the match  
41 requirement of the succeeding fiscal year. Only in-kind contributions that are quantifiable shall  
42 be applied to the in-kind match requirement. Volunteer services may be treated as an in-kind  
43 contribution for the purpose of the match requirement of this subsection. Volunteer services  
44 that qualify as professional services shall be valued at the fair market value of those services.  
45 All other volunteer service hours shall be valued at the statewide average wage rate as  
46 calculated from data compiled by the Employment Security Commission in the Employment  
47 and Wages in North Carolina Annual Report for the most recent period for which data are  
48 available. Expenses, including both those paid by cash and in-kind contributions, incurred by  
49 other participating non-State entities contracting with the North Carolina Partnership for  
50 Children, Inc., or the local partnerships, also may be considered resources available to meet the

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

24 **SECTION 10.9.(d)** To the extent possible, the North Carolina Partnership for  
25 Children, Inc., shall not reduce subsidy expenditures for the 2013-2014 fiscal year.

## 27 **DELAY LOCAL RECEIPT OF LARGER PORTION OF FOOD & LODGING FEES**

28 **SECTION 10.11.** Section 31.11A(c) of S.L. 2011-145, as amended by Section 61A  
29 of S.L. 2011-391, reads as rewritten:

30 "SECTION 31.11A.(c) Subsection (a) of this section becomes effective July 1, 2014."  
31

## 32 **AIDS DRUG ASSISTANCE PROGRAM PILOT**

33 **SECTION 10.12.(a)** The Department of Health and Human Services, Division of  
34 Public Health, shall develop a pilot program to enroll individuals receiving services under the  
35 Aids Drug Assistance Program (ADAP) in Inclusive Health North Carolina. The Department  
36 shall not implement the pilot program until it obtains actuarial services to ensure the cost  
37 neutrality or cost savings of enrolling ADAP recipients in Inclusive Health North Carolina. If  
38 an actuary determines that implementation will be cost neutral or achieve savings, the  
39 Department shall implement the pilot program for the period commencing January 1, 2013, and  
40 terminating December 31, 2013. The purposes of the pilot are to determine cost savings to  
41 ADAP through enrollment of ADAP recipients in a preexisting conditions insurance program  
42 (PCIP). The Department shall select up to three HIV/AIDS care provider agencies with the  
43 highest number of ADAP recipients to participate in the pilot. The Department shall ensure that  
44 the total number of ADAP recipients participating in the pilot meets all of the following  
45 requirements:

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



1           **SECTION 10.12.(b)** The Department may contract with a vendor to evaluate the  
2 results of the pilot program. By no later than April 1, 2014, the Department shall report to the  
3 Joint Legislative Oversight Committee on Health and Human Services, the Senate  
4 Appropriations Committee on Health and Human Services, and the House Appropriations  
5 Subcommittee on Health and Human Services on the results of the pilot program. The report  
6 shall include all of the following:

- 7           (1) The number of pilot program participants.
- 8           (2) A cost analysis for the pilot program, including a cost comparison between  
9           ADAP recipients who received services through Inclusive Health North  
10           Carolina and ADAP recipients who received services only through ADAP.
- 11           (3) Feedback from pilot program participants.
- 12           (4) Best practices identified by the Department for transitioning ADAP  
13           recipients to Medicaid as they become eligible.
- 14           (5) Improved health outcomes.

15           **SECTION 10.12.(c)** The Department shall use funds appropriated to it to develop  
16 and implement the pilot program authorized by this section. The Division of Public Health shall  
17 manage the number of ADAP recipients enrolled in Inclusive Health North Carolina as part of  
18 the pilot program and the number of ADAP recipients receiving services only through ADAP  
19 in order to ensure that pilot program expenditures do not exceed available funds.  
20

## 21 **CHANGES TO COMMUNITY-FOCUSED ELIMINATING HEALTH DISPARITIES** 22 **INITIATIVE**

23           **SECTION 10.13.(a)** Funds appropriated in this act from the General Fund to the  
24 Department of Health and Human Services (Department) for the Community-Focused  
25 Eliminating Health Disparities Initiative (CFEHDI) shall be used to provide a maximum of 12  
26 grants-in-aid to close the gap in the health status of African-Americans, Hispanics/Latinos, and  
27 American Indians as compared to the health status of white persons. These grants-in-aid shall  
28 focus on the use of measures to eliminate or reduce health disparities among minority  
29 populations in this State with respect to heart disease, stroke, diabetes, obesity, asthma,  
30 HIV/AIDS, and cancer. The Office of Minority Health shall coordinate and implement the  
31 grants-in-aid program authorized by this section.

32           **SECTION 10.13.(b)** In implementing the grants-in-aid program authorized by  
33 subsection (a) of this section, the Department shall ensure all of the following:

- 34           (1) The amount of any grant-in-aid is limited to three hundred thousand dollars  
35           (\$300,000).
- 36           (2) Only community-based organizations, faith-based organizations, local health  
37           departments, hospitals, and CCNC networks located in urban and rural areas  
38           of the western, eastern, and Piedmont areas of this State are eligible to apply  
39           for these grants-in-aid. No more than four grants-in-aid shall be awarded to  
40           applicants located in any one of the three areas specified in this subdivision.
- 41           (3) Each eligible applicant shall be required to demonstrate substantial  
42           participation and involvement with all other categories of eligible applicants,  
43           in order to ensure an evidence-based medical home model that will affect  
44           change in health and geographic disparities.
- 45           (4) Eligible applicants shall select one or more of the following chronic illnesses  
46           or conditions specific to the applicant's geographic area as the basis for  
47           applying for a grant-in-aid under this section to affect change in the health  
48           status of African-Americans, Hispanics/Latinos, or American Indians:
  - 49           a. Heart Disease.
  - 50           b. Stroke.
  - 51           c. Diabetes.

- d. Obesity.
- e. Asthma.
- f. HIV/AIDS.
- g. Cancer.

(5) The minimum duration of the grant period for any grant-in-aid is two years.

(6) The maximum duration of the grant period for any grant-in-aid is three years.

(7) If approved for a grant-in-aid, the grantee (i) shall not use more than eight percent (8%) of the grant funds for overhead costs and (ii) shall be required at the end of the grant period to demonstrate significant gains in addressing one or more of the health disparity focus areas identified in subsection (a) of this section.

(8) An independent panel with expertise in the delivery of services to minority populations, health disparities, chronic illnesses and conditions, and HIV/AIDS shall conduct the review of applications for grants-in-aid. The Department shall establish the independent panel required by this section.

**SECTION 10.13.(c)** The grants-in-aid awarded under this section shall be awarded in honor of the memory of the following recently deceased members of the General Assembly: Bernard Allen, John Hall, Robert Holloman, Howard Hunter, Jeanne Lucas, Vernon Malone, William Martin, and Pete Cunningham. These funds shall be used for concerted efforts to address large gaps in health status among North Carolinians who are African-American, as well as disparities among other minority populations in North Carolina.

**SECTION 10.13.(d)** By October 1, 2012, and annually thereafter, the Department shall submit a report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division on funds appropriated to the CFEHDI. The report shall include specific activities undertaken pursuant to subsection (a) of this section to address large gaps in health status among North Carolinians who are African-American and other minority populations in this State, and shall also address all of the following:

- (1) Which community-based organizations, faith-based organizations, local health departments, hospitals, and CCNC networks received CFEHDI grants-in-aid.
- (2) The amount of funding awarded to each grantee.
- (3) Which of the minority populations were served by each grantee.
- (4) Which community-based organizations, faith-based organizations, local health departments, hospitals, and CCNC networks were involved in fulfilling the goals and activities of each grant-in-aid awarded under this section and what activities were planned and implemented by the grantee to fulfill the community focus of the CFEHDI program.
- (5) How the activities implemented by the grantee fulfilled the goal of reducing health disparities among minority populations, and the specific success in reducing particular incidences.

## **FUNDS FOR SCHOOL NURSES**

**SECTION 10.14.(a)** All funds appropriated in this act for the School Nurse Funding Initiative shall be used to supplement and not supplant other State, local, or federal funds appropriated or allocated for this purpose. Communities shall maintain their current level of effort and funding for school nurses. These funds shall not be used to fund nurses for State agencies. These funds shall be distributed to local health departments according to a formula that includes all of the following:

- (1) School nurse-to-student ratio.

- 1 (2) Percentage of students eligible for free or reduced meals.
- 2 (3) Percentage of children in poverty.
- 3 (4) Per capita income.
- 4 (5) Eligibility as a low-wealth county.
- 5 (6) Mortality rates for children between 1 and 19 years of age.
- 6 (7) Percentage of students with chronic illnesses.
- 7 (8) Percentage of county population consisting of minority persons.

8 **SECTION 10.14.(b)** The Division of Public Health shall ensure that school nurses  
9 funded with State funds (i) do not assist in any instructional or administrative duties associated  
10 with a school's curriculum and (ii) perform all of the following with respect to school health  
11 programs:

- 12 (1) Serve as the coordinator of the health services program and provide nursing  
13 care.
- 14 (2) Provide health education to students, staff, and parents.
- 15 (3) Identify health and safety concerns in the school environment and promote a  
16 nurturing school environment.
- 17 (4) Support healthy food services programs.
- 18 (5) Promote healthy physical education, sports policies, and practices.
- 19 (6) Provide health counseling, assess mental health needs, provide interventions,  
20 and refer students to appropriate school staff or community agencies.
- 21 (7) Promote community involvement in assuring a healthy school and serve as  
22 school liaison to a health advisory committee.
- 23 (8) Provide health education and counseling and promote healthy activities and  
24 a healthy environment for school staff.
- 25 (9) Be available to assist the county health department during a public health  
26 emergency.

#### 27 **AIDS DRUG ASSISTANCE PROGRAM**

28 **SECTION 10.15.** The Department of Health and Human Services (DHHS) shall  
29 work with the Department of Public Safety (DPS) to use DPS funds to purchase  
30 pharmaceuticals for the treatment of persons in the custody of DPS with HIV/AIDS in a  
31 manner that allows these funds to be accounted for as State matching funds in DHHS'  
32 drawdown of federal Ryan White funds.  
33

#### 34 **MEN'S HEALTH**

35 **SECTION 10.16.** The Department of Health and Human Services, Division of  
36 Public Health, shall delegate to the Chronic Disease Prevention and Control Office the  
37 responsibility for ensuring attention to the prevention of disease and improvement in the quality  
38 of life for men over their entire lifespan. The Department shall develop strategies for achieving  
39 these goals, which shall include (i) developing a strategic plan to improve health care services,  
40 (ii) building public health awareness, (iii) developing initiatives within existing programs, and  
41 (iv) pursuing federal and State funding for the screening, early detection, and treatment of  
42 prostate cancer and other diseases affecting men's health.  
43

#### 44 **VACCINE INNOVATION**

45 **SECTION 10.17.** The North Carolina Center for Vaccine Innovation (NCCVI) is a  
46 consortium of private and public institutions conducting vaccine-related research. In  
47 recognition of the value of vaccine research and education, the opportunity for  
48 industry-sponsored and federally funded research, the public health benefit, and the potential  
49 for enhanced tax revenue for the state and job creation, the state may study the feasibility of  
50

1 collaboration with NCCVI. Funds appropriated to the department of Health and Human  
2 Services, Division of Public Health may be used to conduct the feasibility study.

### 4 **TRANSITIONS TO COMMUNITY LIVING INITIATIVE**

5 **SECTION 10.18A.(a)** Transitions to Community Living Funding. There is  
6 established funding for the Transitions to Community Living Initiative to facilitate  
7 implementation. The sum of three million eight hundred thirty-four thousand two hundred  
8 seventy-five dollars (\$3,834,275) is appropriated for fiscal year 2013-2014 and nine million  
9 three hundred ninety-four thousand six hundred fifty-eight dollars (\$9,394,658) for fiscal year  
10 2014-2015 to support the Department of Health and Human Services in its plan for  
11 transitioning individuals with severe mental illness and severe and persistent mental illness into  
12 community living arrangements. The Department may issue temporary rules to implement this  
13 subsection.

14 **SECTION 10.18A.(b)** Nothing in this section is intended to create or shall be  
15 construed to create a right or entitlement for any individual, facility, or provider of services.

### 17 **HEALTH INFORMATION TECHNOLOGY**

18 **SECTION 10.19.(a)** The Department of Health and Human Services, in  
19 cooperation with the State Chief Information Officer, shall coordinate health information  
20 technology (HIT) policies and programs within the State of North Carolina. The Department's  
21 goal in coordinating State HIT policy and programs shall be to avoid duplication of efforts and  
22 to ensure that each State agency, public entity, and private entity that undertakes health  
23 information technology activities does so within the area of its greatest expertise and technical  
24 capability and in a manner that supports coordinated State and national goals, which shall  
25 include at least all of the following:

- 26 (1) Ensuring that patient health information is secure and protected, in  
27 accordance with applicable law.
- 28 (2) Improving health care quality, reducing medical errors, reducing health  
29 disparities, and advancing the delivery of patient-centered medical care.
- 30 (3) Providing appropriate information to guide medical decisions at the time and  
31 place of care.
- 32 (4) Ensuring meaningful public input into HIT infrastructure development.
- 33 (5) Improving the coordination of information among hospitals, laboratories,  
34 physicians' offices, and other entities through an effective infrastructure for  
35 the secure and authorized exchange of health care information.
- 36 (6) Improving public health services and facilitating early identification and  
37 rapid response to public health threats and emergencies, including  
38 bioterrorist events and infectious disease outbreaks.
- 39 (7) Facilitating health and clinical research.
- 40 (8) Promoting early detection, prevention, and management of chronic diseases.

41 **SECTION 10.19.(b)** The Department of Health and Human Services shall  
42 establish and direct a HIT management structure that is efficient and transparent and that is  
43 compatible with the Office of the National Health Coordinator for Information Technology  
44 (National Coordinator) governance mechanism. The HIT management structure shall be  
45 responsible for all of the following:

- 46 (1) Developing a State plan for implementing and ensuring compliance with  
47 national HIT standards and for the most efficient, effective, and widespread  
48 adoption of HIT.
- 49 (2) Ensuring that (i) specific populations are effectively integrated into the State  
50 plan, including aging populations, populations requiring mental health  
51 services, and populations utilizing the public health system; and (ii)

- 1 unserved and underserved populations receive priority consideration for HIT  
2 support.
- 3 (3) Identifying all HIT stakeholders and soliciting feedback and participation  
4 from each stakeholder in the development of the State plan.
- 5 (4) Ensuring that existing HIT capabilities are considered and incorporated into  
6 the State plan.
- 7 (5) Identifying and eliminating conflicting HIT efforts where necessary.
- 8 (6) Identifying available resources for the implementation, operation, and  
9 maintenance of health information technology, including identifying  
10 resources and available opportunities for North Carolina institutions of  
11 higher education.
- 12 (7) Ensuring that potential State plan participants are aware of HIT policies and  
13 programs and the opportunity for improved health information technology.
- 14 (8) Monitoring HIT efforts and initiatives in other states and replicating  
15 successful efforts and initiatives in North Carolina.
- 16 (9) Monitoring the development of the National Coordinator's strategic plan and  
17 ensuring that all stakeholders are aware of and in compliance with its  
18 requirements.
- 19 (10) Monitoring the progress and recommendations of the HIT Policy and  
20 Standards Committee and ensuring that all stakeholders remain informed of  
21 the Committee's recommendations.
- 22 (11) Monitoring all studies and reports provided to the United States Congress  
23 and reporting to the Joint Legislative Oversight Committee on Information  
24 Technology and the Fiscal Research Division on the impact of report  
25 recommendations on State efforts to implement coordinated HIT.
- 26

27 **MEDICAID MANAGEMENT INFORMATION SYSTEM (MMIS)**  
28 **FUNDS/IMPLEMENTATION OF MMIS**

29 **SECTION 10.20.(a)** The Secretary of the Department of Health and Human  
30 Services may utilize prior year earned revenue received for the replacement MMIS in the  
31 amount of nine million six hundred fifty-eight thousand one hundred fifty-two dollars  
32 (\$9,658,152) in fiscal year 2013-2014 and one million six hundred sixty-six thousand six  
33 hundred twenty-five dollars (\$1,666,625) in fiscal year 2014-2015. The Department shall  
34 utilize prior year earned revenues received for the implementation of the replacement MMIS. In  
35 the event the Department does not receive prior year earned revenues in the amounts authorized  
36 by this section, or funds are insufficient to advance the project, the Department is authorized,  
37 with approval of the Office of State Budget and Management (OSBM), to utilize overrealized  
38 receipts and funds appropriated to the Department to achieve the level of funding specified in  
39 this section for the replacement MMIS.

40 **SECTION 10.20.(b)** The Department shall make full development of the  
41 replacement MMIS a top priority. During the development and implementation of the  
42 replacement MMIS, the Department shall develop plans to ensure the timely and effective  
43 implementation of enhancements to the system to provide the following capabilities:

- 44 (1) Receiving and tracking premiums or other payments required by law.  
45 (2) Compatibility with the Health Information System.

46 **SECTION 10.20.(c)** The Department shall make every effort to expedite the  
47 implementation of the enhancements. The replacement MMIS shall have the capability to fully  
48 implement the administration of NC Health Choice, Ticket to Work, CAP Children's Program,  
49 all relevant Medicaid waivers and the Medicare 646 waiver as it applies to Medicaid eligibles.

50 **SECTION 10.20.(d)** The Office of the State Chief Information Officer (SCIO) and  
51 the Office of Information Technology Services (ITS) shall work in cooperation with the

1 Department to ensure the timely and effective implementation of the replacement MMIS and  
2 enhancements. The SCIO shall ensure that the replacement MMIS meets all State requirements  
3 for project management and shall immediately report any failure to meet State project  
4 management requirements to the Chairs of the House of Representatives Committee on  
5 Appropriations and the House of Representatives Subcommittee on Health and Human  
6 Services, the Chairs of the Senate Committee on Appropriations and the Senate Appropriations  
7 Committee on Health and Human Services, the Joint Legislative Oversight Committee on  
8 Health and Human Services, the Joint Legislative Oversight Committee on Information  
9 Technology, the Fiscal Research Division, and the Office of State Budget and Management.  
10 The SCIO shall also immediately report if any replacement MMIS project, or portion of a  
11 project, is listed as red in the project portfolio management tool.

12 **SECTION 10.20.(e)** Notwithstanding G.S. 114-2.3, the Department shall engage  
13 the services of private counsel with pertinent information technology and computer law  
14 expertise to negotiate and review contract amendments associated with the replacement MMIS  
15 that exceed ten million dollars (\$10,000,000). The counsel engaged by the Department shall  
16 review the replacement MMIS contract amendments between the Department and the vendor to  
17 ensure that the requirements of subsection (c) of this section are met in their entirety and that  
18 the terms of the contract amendments are in the State's best interest.

19 **SECTION 10.20.(f)** Any changes to the design, development, and implementation  
20 schedules shall be reported as part of the Department's monthly MMIS reporting requirements.  
21 Any changes to key milestones shall be immediately reported to the Chairs of the House of  
22 Representatives Committee on Appropriations and the House of Representatives Subcommittee  
23 on Health and Human Services, the Chairs of the Senate Committee on Appropriations and the  
24 Senate Appropriations Committee on Health and Human Services, the Joint Legislative  
25 Oversight Committee on Health and Human Services, the Joint Legislative Oversight  
26 Committee on Information Technology, the Fiscal Research Division, and the Office of State  
27 Budget and Management, with a full explanation of the reason for the change and any  
28 associated costs.

29 **SECTION 10.20.(g)** Beginning July 1, 2013, the Department shall make quarterly  
30 reports on the progress of the development and implementation of the replacement MMIS, the  
31 Reporting and Analytics Project, and the Division of Health Services Regulation Project. This  
32 report shall include any changes, or anticipated changes, in scope, functionality, or projected  
33 costs. This report shall include any changes to any replacement MMIS vendor contracts and  
34 shall provide a detailed explanation of those changes and any associated cost increases. Each  
35 report shall be made to the Chairs of the House of Representatives Committee on  
36 Appropriations and the House of Representatives Subcommittee on Health and Human  
37 Services, the Chairs of the Senate Committee on Appropriations and the Senate Appropriations  
38 Committee on Health and Human Services, the Joint Legislative Oversight Committee on  
39 Health and Human Services, the Joint Legislative Oversight Committee on Information  
40 Technology, the Fiscal Research Division, and the Office of State Budget and Management. A  
41 copy of the final report on each contract or amendment award shall also be submitted to the  
42 Joint Legislative Oversight Commission on Governmental Operations.

43 **SECTION 10.20.(h)** The Reporting and Analytics Project solution must be  
44 completed simultaneously with the replacement MMIS.

45  
46 **NORTH CAROLINA FAMILIES ACCESSING SERVICES THROUGH**  
47 **TECHNOLOGY (NC FAST) FUNDS**

48 **SECTION 10.21.** Funds appropriated in this Act in the amount of eight hundred  
49 sixty-four thousand six hundred fifty-five dollars (\$864,655) for state fiscal year 2014-2015  
50 along with cash balance in budget code 24410 fund 2411 for the NC FAST project shall be  
51 used to match federal funds in fiscal year 2013-2014 and 2014-2015 to expedite the

1 development and implementation of the Eligibility Information System (EIS), Child Care, Low  
2 Income Energy Assistance, and Crisis Intervention Programs, and Child Service components of  
3 the North Carolina Families Accessing Services through Technology (NC FAST) project.  
4

#### 5 **USE OF DHHS E-COMMERCE FUNDS FOR DIGITAL TRANSACTION FEES**

6 **SECTION 10.22.** Notwithstanding the provisions of G.S. 66-58-12(c), funds  
7 generated from digital transaction fees may be used by the Department of Health and Human  
8 Services to support operational expenses as approved by the Office of State Budget and  
9 Management.  
10

#### 11 **MH/DD/SAS COMMUNITY SERVICE FUNDS AND FUNDS FOR INPATIENT 12 PSYCHIATRIC BEDS OR BED DAYS**

13 **SECTION 10.23.** Section 10.8(a) and 10.8(b) of S.L. 2011-145 reads as rewritten:

14 **"SECTION 10.8.(a)** For the purpose of mitigating cash flow problems that many  
15 non-single-stream managed care organizations (MCOs)/local management entities (LMEs)  
16 experience at the beginning of each fiscal year, the Department of Health and Human Services,  
17 Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall  
18 adjust the timing and method by which allocations of service dollars are distributed to each  
19 non-single-stream LME/MCO. To this end, the allocations shall be adjusted such that at the  
20 beginning of the fiscal year the Department shall distribute not less than one-twelfth of the  
21 LME's/MCO's continuation allocation and subtract the amount of the adjusted distribution from  
22 the LME's/MCO's total reimbursements for the fiscal year.

23 **"SECTION 10.8.(b)** Of the funds appropriated in this act to the Department of Health and  
24 Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse  
25 Services, the sum of thirty-eight million one hundred twenty-one thousand six hundred  
26 forty-four dollars (\$38,121,644) for the 2013-2014 fiscal year and the sum of thirty-eight  
27 million one hundred twenty-one thousand six hundred forty-four dollars (\$38,121,644) for the  
28 2014-2015 fiscal year shall be allocated for the purchase of local inpatient psychiatric beds or  
29 bed days In addition, at the discretion of the Secretary of Health and Human Services, existing  
30 funds allocated to LMEs MCOs for community-based mental health, developmental  
31 disabilities, and substance abuse services may be used to purchase additional local inpatient  
32 psychiatric beds or bed days. These beds or bed days shall be distributed across the State in  
33 LME/MCO catchment areas, including any catchment areas served by managed care  
34 organizations, and according to need as determined by the Department. The Department shall  
35 enter into contracts with the LMEs/MCOs and community hospitals for the management of  
36 these beds or bed days. The Department shall work to ensure that these contracts are awarded  
37 equitably around all regions of the State. Local inpatient psychiatric beds or bed days shall be  
38 managed and controlled by the LME/MCO, including the determination of which local or State  
39 hospital the individual should be admitted to pursuant to an involuntary commitment order.  
40 Funds shall not be allocated to LMEs/MCOs but shall be held in a statewide reserve at the  
41 Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to pay  
42 for services authorized by the LMEs/MCOs and billed by the hospitals through the  
43 LMEs/MCOs. LMEs/MCOs shall remit claims for payment to the Division within 15 working  
44 days of receipt of a clean claim from the hospital and shall pay the hospital within 30 working  
45 days of receipt of payment from the Division. If the Department determines (i) that an  
46 LME/MCO is not effectively managing the beds or bed days for which it has responsibility, as  
47 evidenced by beds or bed days in the local hospital not being utilized while demand for services  
48 at the State psychiatric hospitals has not reduced, or (ii) the LME/MCO has failed to comply  
49 with the prompt payment provisions of this subsection, the Department may contract with  
50 another LME/MCO to manage the beds or bed days, or, notwithstanding any other provision of  
51 law to the contrary, may pay the hospital directly. The Department shall develop reporting

1 requirements for LMEs/MCOs regarding the utilization of the beds or bed days. Funds  
2 appropriated in this section for the purchase of local inpatient psychiatric beds or bed days shall  
3 be used to purchase additional beds or bed days not currently funded by or through  
4 LMEs/MCOs and shall not be used to supplant other funds available or otherwise appropriated  
5 for the purchase of psychiatric inpatient services under contract with community hospitals,  
6 including beds or bed days being purchased through Hospital Utilization Pilot funds  
7 appropriated in S.L. 2007-323.

8  
9 **MH/DD/SAS COMMUNITY SERVICE FUNDS AND FUNDS FOR INPATIENT**  
10 **PSYCHIATRIC BEDS OR BED DAYS**

11 **SECTION 10.23.(a)** For the purpose of mitigating cash flow problems that many  
12 non-single-stream managed care organizations (MCOs)/local management entities (LMEs)  
13 experience at the beginning of each fiscal year, the Department of Health and Human Services,  
14 Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall  
15 adjust the timing and method by which allocations of service dollars are distributed to each  
16 non-single-stream LME/MCO. To this end, the allocations shall be adjusted such that at the  
17 beginning of the fiscal year the Department shall distribute not less than one-twelfth of the  
18 LME's/MCO's continuation allocation and subtract the amount of the adjusted distribution from  
19 the LME's/MCO's total reimbursements for the fiscal year.

20 **SECTION 10.23.(b)** Of the funds appropriated in this act to the Department of  
21 Health and Human Services, Division of Mental Health, Developmental Disabilities, and  
22 Substance Abuse Services, the sum of thirty-eight million one hundred twenty-one thousand six  
23 hundred forty-four dollars (\$38,121,644) for the 2013-2014 fiscal year and the sum of  
24 thirty-eight million one hundred twenty-one thousand six hundred forty-four dollars  
25 (\$38,121,644) for the 2014-2015 fiscal year shall be allocated for the purchase of local  
26 inpatient psychiatric beds or bed days. In addition, at the discretion of the Secretary of Health  
27 and Human Services, existing funds allocated to LMEs/MCOs for community-based mental  
28 health, developmental disabilities, and substance abuse services may be used to purchase  
29 additional local inpatient psychiatric beds or bed days. These beds or bed days shall be  
30 distributed across the State in LME/MCO catchment areas, including any catchment areas  
31 served by managed care organizations, and according to need as determined by the Department.  
32 The Department shall enter into contracts with the LMEs/MCOs and community hospitals for  
33 the management of these beds or bed days. The Department shall work to ensure that these  
34 contracts are awarded equitably around all regions of the State. Local inpatient psychiatric beds  
35 or bed days shall be managed and controlled by the LME/MCO, including the determination of  
36 which local or State hospital the individual should be admitted to pursuant to an involuntary  
37 commitment order. Funds shall not be allocated to LMEs/MCOs but shall be held in a statewide  
38 reserve at the Division of Mental Health, Developmental Disabilities, and Substance Abuse  
39 Services to pay for services authorized by the LMEs/MCOs and billed by the hospitals through  
40 the LMEs/MCOs. LMEs/MCOs shall remit claims for payment to the Division within 15  
41 working days of receipt of a clean claim from the hospital and shall pay the hospital within 30  
42 working days of receipt of payment from the Division. If the Department determines (i) that an  
43 LME/MCO is not effectively managing the beds or bed days for which it has responsibility, as  
44 evidenced by beds or bed days in the local hospital not being utilized while demand for services  
45 at the State psychiatric hospitals has not reduced, or (ii) the LME/MCO has failed to comply  
46 with the prompt payment provisions of this subsection, the Department may contract with  
47 another LME/MCO to manage the beds or bed days, or, notwithstanding any other provision of  
48 law to the contrary, may pay the hospital directly. The Department shall develop reporting  
49 requirements for LMEs/MCOs regarding the utilization of the beds or bed days. Funds  
50 appropriated in this section for the purchase of local inpatient psychiatric beds or bed days shall  
51 be used to purchase additional beds or bed days not currently funded by or through



1 LMEs/MCOs and shall not be used to supplant other funds available or otherwise appropriated  
2 for the purchase of psychiatric inpatient services under contract with community hospitals,  
3 including beds or bed days being purchased through Hospital Utilization Pilot funds  
4 appropriated in S.L. 2007-323.

5 **SECTION 10.23.(c)** Of the funds appropriated in this act to the Department of  
6 Health and Human Services, Division of Mental Health, Developmental Disabilities, and  
7 Substance Abuse Services, for crisis diversion and services, the sum of five million seven  
8 hundred thousand dollars (\$5,700,000) shall be distributed to LMEs/MCOs to support crisis  
9 diversion and services throughout the State according to need as determined by the Department.

10 **SECTION 10.23.(d)** The Secretary of the Department of Health and Human  
11 Services shall have the authority to realign or reallocate funds appropriated in this act to fund  
12 new priorities of the State funded community mental health, developmental disabilities and  
13 substance abuse services. Not later than March 1, 2014, the Department shall report to the  
14 House of Representatives Appropriations Subcommittee on Health and Human Services, the  
15 Senate Appropriations Committee on Health and Human Services, the Joint Legislative  
16 Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse  
17 Services, and the Fiscal Research Division on a prioritized plan for system reform.

18 **SECTION 10.23.(e)** The Division is directed, through consultation with  
19 LME/MCO representatives and stakeholders, to develop a set of standardized covered benefits  
20 for recipients of LME/MCO Service Funds that shall become the only services paid for by  
21 community service funds through LMEs/MCOs. These services shall be best practices for  
22 developmental disabilities, mental illness, and substance abuse.

#### 23 24 **MH/DD/SAS HEALTH CARE INFORMATION SYSTEM PROJECT**

25 **SECTION 10.24.** Of the funds appropriated to the Department of Health and  
26 Human Services for the 2013-2015 fiscal biennium, the Department may use a portion of these  
27 funds to continue to develop and implement a health care information system for State  
28 institutions operated by the Division of Mental Health, Developmental Disabilities, and  
29 Substance Abuse Services. G.S. 143C-6-5 does not apply to this section.

#### 30 31 **LME/MCO FUNDS FOR SUBSTANCE ABUSE SERVICES**

32 **SECTION 10.25.(a)** Consistent with G.S. 122C-2, the General Assembly strongly  
33 encourages Local Management Entities (LMEs)/Managed Care Organizations (MCOs) to use a  
34 portion of the funds appropriated for substance abuse treatment services to support prevention  
35 and education activities.

36 **SECTION 10.25.(b)** An LME/MCO may use up to one percent (1%) of funds  
37 allocated to it for substance abuse treatment services to provide nominal incentives for  
38 consumers who achieve specified treatment benchmarks, in accordance with the federal  
39 substance abuse and mental health services administration best practice model entitled  
40 Contingency Management.

41 **SECTION 10.25.(c)** In providing treatment and services for adult offenders and  
42 increasing the number of Treatment Accountability for Safer Communities (TASC) case  
43 managers, local management entities shall consult with TASC to improve offender access to  
44 substance abuse treatment and match evidence-based interventions to individual needs at each  
45 stage of substance abuse treatment. Special emphasis should be placed on intermediate  
46 punishment offenders, community punishment offenders at risk for revocation, and Department  
47 of Public Safety releasees who have completed substance abuse treatment while in custody.

48 In addition to the funds appropriated in this act to the Department of Health and  
49 Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse  
50 Services, to provide substance abuse services for adult offenders and to increase the number of  
51 TASC case managers, the Department shall allocate up to three hundred thousand dollars

1 (\$300,000) to TASC. These funds shall be allocated to TASC before funds are allocated to  
2 LMEs for mental health services, substance abuse services, and crisis services.

3 **SECTION 10.25.(d)** In providing drug treatment court services, LMEs/MCOs  
4 shall consult with the local drug treatment court team and shall select a treatment provider that  
5 meets all provider qualification requirements and the drug treatment court's needs. A single  
6 treatment provider may be chosen for non-Medicaid-eligible participants only. A single  
7 provider may be chosen who can work with all of the non-Medicaid-eligible drug treatment  
8 court participants in a single group. During the 52-week drug treatment court program,  
9 participants shall receive an array of treatment and aftercare services that meets the participant's  
10 level of need, including step-down services that support continued recovery.

11 **SECTION 10.25.(e)** The Division of Mental Health, Developmental Disabilities  
12 and Substance Abuse Services, with the approval of the Office of State Budget and  
13 Management, may use up to two million two hundred thousand dollars (\$2,200,000) in prior  
14 year earned revenue to support services to clients in the drug treatment court program.

## 15 16 **LIABILITY INSURANCE**

17 **SECTION 10.26.(a)** The Secretary of the Department of Health and Human  
18 Services, the Secretary of the Department of Environment and Natural Resources, and the  
19 Secretary of the Department of Public Safety may provide medical liability coverage not to  
20 exceed one million dollars (\$1,000,000) per incident on behalf of employees of the  
21 Departments licensed to practice medicine or dentistry, on behalf of all licensed physicians who  
22 are faculty members of The University of North Carolina who work on contract for the  
23 Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for  
24 incidents that occur in Division programs, and on behalf of physicians in all residency training  
25 programs from The University of North Carolina who are in training at institutions operated by  
26 the Department of Health and Human Services. This coverage may include commercial  
27 insurance or self-insurance and shall cover these individuals for their acts or omissions only  
28 while they are engaged in providing medical and dental services pursuant to their State  
29 employment or training.

30 **SECTION 10.26.(b)** The coverage provided under this section shall not cover any  
31 individual for any act or omission that the individual knows or reasonably should know  
32 constitutes a violation of the applicable criminal laws of any state or the United States or that  
33 arises out of any sexual, fraudulent, criminal, or malicious act or out of any act amounting to  
34 willful or wanton negligence.

35 **SECTION 10.26.(c)** The coverage provided pursuant to this section shall not  
36 require any additional appropriations and shall not apply to any individual providing  
37 contractual service to the Department of Health and Human Services, the Department of  
38 Environment and Natural Resources, or the Department of Public Safety, with the exception  
39 that coverage may include physicians in all residency training programs from The University of  
40 North Carolina who are in training at institutions operated by the Department of Health and  
41 Human Services and licensed physicians who are faculty members of The University of North  
42 Carolina who work for the Division of Mental Health, Developmental Disabilities, and  
43 Substance Abuse Services.

## 44 45 **LME/MCO RISK RESERVE**

46 **SECTION 10.27.** Effective with the 2014 State fiscal year, of the funds  
47 appropriated in this act to the Department of Health and Human Services, Division of Mental  
48 Health, Developmental Disabilities, and Substance Abuse Services for LME/MCO Community  
49 Services, 2% of non-Medicaid funds annually shall be identified as a risk reserve, and  
50 designated as such in a non-reverting special reserve account titled "DMHDDSAS Risk  
51 Reserve" until a target of 15% of the LME/MCO's Non-Medicaid Community service funding

1 is reached. The Risk Reserve Account shall be used only with prior approval by the Department  
2 and the Office of State Budget and Management to address the viability or solvency of an  
3 LME/MCO and the ability of the LME/MCO to meet obligations to its providers.  
4

#### 5 **FOSTER CARE BUDGET FOR GUARDIANSHIP ASSISTANCE**

6 **SECTION 10.28** Of the fund available in the Foster Care budget the Department of  
7 Health and Human Services, Division of Social Services may provide for the financial support  
8 of children who are deemed to be in a permanent family placement setting, eligible for legal  
9 guardianship, and are otherwise unlikely to receive permanency. The Division of Social  
10 Services shall design this Guardianship Assistance Program (GAP) in manner so as to not incur  
11 additional expenses beyond the Foster Care budget. The Guardianship Assistance rates will  
12 reimburse the legal guardian for room and board, and be set at the same rate as the Foster Care  
13 room and board rates.

14 The Social Services Board is authorized to adopt administrative rules establishing a  
15 Guardianship Assistance Program. These rules shall be developed in such a manner as to  
16 provide financial support of children who are deemed to be in a licensed family placement  
17 setting and are otherwise unlikely to obtain legal permanency. The rules shall be developed in  
18 manner so as to not incur additional expenses beyond the approved Foster Care budget. The  
19 Guardianship Assistance rates will reimburse the legal guardian at the same rate as the Foster  
20 Care room and board rates.  
21

#### 22 **REVISE DATES/TANF BENEFIT IMPLEMENTATION**

23 **SECTION 10.29.(a)** The General Assembly approves the plan titled "North  
24 Carolina Temporary Assistance for Needy Families State Plan 2012-2015, prepared by the  
25 Department of Health and Human Services and presented to the General Assembly. The North  
26 Carolina Temporary Assistance for Needy Families State Plan covers the period October 1,  
27 2012, through September 30, 2015. The Department shall submit the State Plan, as revised in  
28 accordance with subsection (b) of this section, to the United States Department of Health and  
29 Human Services, as amended by this act or any other act of the 2013 General Assembly.

30 **SECTION 10.29.(b)** The counties approved as Electing Counties in the North  
31 Carolina Temporary Assistance for Needy Families State Plan 2012-2015, as approved by this  
32 section are Beaufort, Caldwell, Catawba, Lenoir, Lincoln, Macon, and Wilson.

33 **SECTION 10.29.(c)** Counties that submitted the letter of intent to remain as an  
34 Electing County or to be redesignated as an Electing County and the accompanying county plan  
35 for years 2012 through 2015 pursuant to G.S. 108A-27(e), shall operate under the Electing  
36 County budget requirements effective July 1, 2012. For programmatic purposes, all counties  
37 referred to in this subsection shall remain under their current county designation through  
38 September 30, 2015.

39 **SECTION 10.29.(d)** For the 2013-2014 fiscal year, Electing Counties shall be  
40 held harmless to their Work First Family Assistance allocations for the 2012-2013 fiscal year,  
41 provided that remaining funds allocated for Work First Family Assistance and Work First  
42 Diversion Assistance are sufficient for payments made by the Department on behalf of  
43 Standard Counties pursuant to G.S. 108A-27.11(b).

44 **SECTION 10.29.(e)** In the event that departmental projections of Work First  
45 Family Assistance and Work First Diversion Assistance for the 2013-2014 fiscal year indicate  
46 that remaining funds are insufficient for Work First Family Assistance and Work First  
47 Diversion Assistance payments to be made on behalf of Standard Counties, the Department is  
48 authorized to deallocate funds, of those allocated to Electing Counties for Work First Family  
49 Assistance in excess of the sums set forth in G.S. 108A-27.11, up to the requisite amount for  
50 payments in Standard Counties. Prior to deallocation, the Department shall obtain approval by  
51 the Office of State Budget and Management. If the Department adjusts the allocation set forth

1 in subsection (d) of this section, then a report shall be made to the Joint Legislative  
2 Commission on Governmental Operations, the House of Representatives Appropriations  
3 Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health  
4 and Human Services, and the Fiscal Research Division.

#### 5 6 **CHILD WELFARE POSTSECONDARY SUPPORT PROGRAM – NC REACH**

7 **SECTION 10.30.(a)** Of the funds appropriated from the General Fund to the  
8 Department of Health and Human Services, the sum of two million six hundred seventy-eight  
9 thousand six hundred fifteen dollars (\$2,678,615) for the 2013-2014 fiscal year and two million  
10 eight hundred five thousand seven hundred fifty-nine dollars (\$2,805,759) for the 2014-2015  
11 fiscal year shall be used to support the child welfare postsecondary support program for the  
12 educational needs of foster youth aging out of the foster care system and special needs children  
13 adopted from foster care after age 12 by providing assistance with the "cost of attendance" as  
14 that term is defined in 20 U.S.C. § 1087ll. Funds appropriated by this subsection shall be  
15 allocated by the State Education Assistance Authority.

16 **SECTION 10.30.(b)** Of the funds appropriated from the General Fund to the  
17 Department of Health and Human Services, the sum of fifty thousand dollars (\$50,000) for the  
18 2013-2014 fiscal year and the sum of fifty thousand dollars (\$50,000) for the 2014-2015 fiscal  
19 year shall be allocated to the North Carolina State Education Assistance Authority (SEAA).  
20 The SEAA shall use these funds only to perform administrative functions necessary to manage  
21 and distribute scholarship funds under the child welfare postsecondary support program.

22 **SECTION 10.30.(c)** Of the funds appropriated from the General Fund to the  
23 Department of Health and Human Services, the sum of three hundred thirty-nine thousand four  
24 hundred ninety-three dollars (\$339,493) for the 2013-2014 fiscal year and the sum of three  
25 hundred thirty-nine thousand four hundred ninety-three dollars (\$339,493) for the 2014-2015  
26 fiscal year shall be used to contract with an entity to administer the child welfare postsecondary  
27 support program described under subsection (a) of this section, which administration shall  
28 include the performance of case management services.

29 **SECTION 10.30.(d)** Funds appropriated to the Department of Health and Human  
30 Services for the child welfare postsecondary support program shall be used only for students  
31 attending public institutions of higher education in this State.

#### 32 33 **FOSTER CARE AND ADOPTION ASSISTANCE PAYMENTS**

34 **SECTION 10.31.(a)** The State and a county participating in foster care and  
35 adoption assistance shall each contribute fifty percent (50%) of the nonfederal share of the cost  
36 of care for a child placed by a county department of social services or child-placing agency in a  
37 family foster home or residential child care facility. A county shall be held harmless from  
38 contributing fifty percent (50%) of the nonfederal share of the cost for a child placed in a  
39 family foster home or residential child care facility under an agreement with that provider as of  
40 October 31, 2008, until the child leaves foster care or experiences a placement change.

41 **SECTION 10.31.(b)** In addition to providing board payments to foster and  
42 adoptive families of HIV-infected children, any additional funds remaining that are  
43 appropriated for purposes described in G.S. 108A-49.1(c) shall be used to provide medical  
44 training in avoiding HIV transmission in the home.

#### 45 46 **INTENSIVE FAMILY PRESERVATION SERVICES FUNDING AND** 47 **PERFORMANCE ENHANCEMENTS**

48 **SECTION 10.32.(a)** Notwithstanding the provisions of G.S. 143B-150.6, the  
49 Intensive Family Preservation Services (IFPS) Program shall provide intensive services to  
50 children and families in cases of abuse, neglect, and dependency where a child is at imminent  
51 risk of removal from the home and to children and families in cases of abuse where a child is

1 not at imminent risk of removal. The Program shall be developed and implemented statewide  
2 on a regional basis. The IFPS shall ensure the application of standardized assessment criteria  
3 for determining imminent risk and clear criteria for determining out-of-home placement.

4 **SECTION 10.32.(b)** The Department of Health and Human Services shall require  
5 that any program or entity that receives State, federal, or other funding for the purpose of IFPS  
6 shall provide information and data that allows for the following:

- 7 (1) An established follow-up system with a minimum of six months of  
8 follow-up services.
- 9 (2) Detailed information on the specific interventions applied, including  
10 utilization indicators and performance measurement.
- 11 (3) Cost-benefit data.
- 12 (4) Data on long-term benefits associated with IFPS. This data shall be obtained  
13 by tracking families through the intervention process.
- 14 (5) The number of families remaining intact and the associated interventions  
15 while in IFPS and 12 months thereafter.
- 16 (6) The number and percentage, by race, of children who received IFPS  
17 compared to the ratio of their distribution in the general population involved  
18 with Child Protective Services.

19 **SECTION 10.32.(c)** The Department shall establish a performance-based funding  
20 protocol and shall only provide funding to those programs and entities providing the required  
21 information specified in subsection (b) of this section. The amount of funding shall be based on  
22 the individual performance of each program.

## 23 24 **CHILD CARING INSTITUTIONS**

25 **SECTION 10.33.** Until the Social Services Commission adopts rules setting  
26 standardized rates for child caring institutions as authorized under G.S. 143B-153(8), the  
27 maximum reimbursement for child caring institutions shall not exceed the rate established for  
28 the specific child caring institution by the Department of Health and Human Services, Office of  
29 the Controller. In determining the maximum reimbursement, the State shall include county and  
30 IV-E reimbursements.

## 31 32 **ELIMINATE MEDICATION ERROR REPORTS**

33 As federal funding is no longer available for this report and as the report has served its purpose  
34 in reducing medication errors and since medication errors will still be reported through  
35 licensure and certification surveys,

36 **SECTION 10.34.** G.S. 131E-128.5 is repealed.

## 37 38 **COMMUNITY CARE OF NORTH CAROLINA**

39 **SECTION 10.35.(a)** The Department of Health and Human Services (Department)  
40 shall submit a report annually from a qualified entity with proven experience in conducting  
41 actuarial and health care studies on the Medicaid cost-savings achieved by the CCNC networks,  
42 which shall include children, adults, and the aged, blind, and disabled, to the House of  
43 Representatives Appropriations Subcommittee on Health and Human Services, the Senate  
44 Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

45 **SECTION 10.35.(b)** North Carolina Community Care Networks, Inc.(NCCCN),  
46 shall report quarterly to the Department and to the Office of State Budget and Management  
47 (OSBM) on the development of the statewide Enhanced Primary Care Case Management  
48 System and its defined goals and deliverables as agreed upon in the contract. NCCCN, Inc.,  
49 shall submit biannual reports to the Secretary of Health and Human Services, OSBM, the  
50 House of Representatives Appropriations Subcommittee on Health and Human Services, the  
51 Senate Appropriations Committee on Health and Human Services, and the Fiscal Research

1 Division on the progress and results of implementing the quantitative, analytical, utilization,  
2 quality, cost containment, and access goals and deliverables set out in the contract. NCCCN,  
3 Inc., shall conduct its own analysis of the CCNC system to identify any variations from the  
4 development plan for the Enhanced Primary Care Case Management System and its defined  
5 goals and deliverables set out in the contract between DMA and NCCCN, Inc. Upon  
6 identifying any variations, NCCCN, Inc., shall develop and implement a plan to address the  
7 variations. NCCCN, Inc., shall report the plan to DMA within 30 days after taking any action to  
8 implement the plan.  
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10 **MEDICAID 1915(I) OPTION FOR BENEFICIARIES WITH**  
11 **INTELLECTUAL/DEVELOPMENTAL DISABILITIES (IDD)**

12 **SECTION 10.36.(a)** The Department of Health and Human Services, Division of  
13 Medical Assistance (Division) shall develop and implement a home- and community-based  
14 services program under Medicaid State Plan 1915(i) or other federal authority to address the  
15 needs of Medicaid enrollees with intellectual or developmental disabilities (IDD) who are not  
16 enrolled in the Innovations Waiver and are not residing in an intermediate care facility for the  
17 mentally retarded (ICF-MR facility).

18 **SECTION 10.36.(b)** Upon approval by the Centers for Medicare and Medicaid  
19 Services (CMS), and in order to assure appropriate utilization management and qualitative  
20 oversight of this service, DMA will amend the 1915(b) waiver to delegate management and  
21 oversight of this benefit to the Local Management Entity-Managed Care Organizations  
22 (LME-MCOs).  
23

24 **ACCOUNTING FOR MEDICAID RECEIVABLES AS NONTAX REVENUE**

25 **SECTION 10.37.(a)** Receivables reserved at the end of the 2013-2014 and  
26 2014-2015 fiscal years shall, when received, be accounted for as nontax revenue for each of  
27 those fiscal years.

28 **SECTION 10.37.(b)** For the 2013-2014 fiscal year, the Department of Health and  
29 Human Services shall deposit from its revenues one hundred ten million dollars (\$110,000,000)  
30 with the Department of State Treasurer to be accounted for as nontax revenue. For the  
31 2014-2015 fiscal year, the Department of Health and Human Services shall deposit from its  
32 revenues one hundred nine million dollars (\$109,000,000) with the Department of State  
33 Treasurer to be accounted for as nontax revenue. These deposits shall represent the return of  
34 General Fund appropriations, nonfederal revenue, fund balances or other resources from State  
35 owned and operated hospitals which are used to provide indigent and non-indigent care  
36 services. The return from State owned and operated hospitals to DHHS will be made from  
37 nonfederal resources in an amount equal to the amount of the payments from the Division of  
38 Medical Assistance for uncompensated care. The treatment of any revenue derived from federal  
39 programs shall be in accordance with the requirements specified in the Code of Federal  
40 Regulations, Title 2, Part 225.  
41

42 **MEDICAID FUNDING FOR ALZHEIMER'S AND RELATED DEMENTIAS**

43 **SECTION 10.38.(a)** From funds available to the Department of Health and Human  
44 Services appropriated in this Act, the Department shall pursue, subject to approval by the  
45 Centers for Medicare and Medicaid Services, Medicaid funding for services for individuals  
46 with Alzheimer's and related dementias through a tiered Medicaid personal assistance program.  
47 Service authorization will require an Alzheimer's and dementia-related assessment component  
48 as part of the independent assessment process for personal care services. Eligible beneficiaries  
49 will be allowed up to 130 hours of service per month. The funding option shall be effective July  
50 1, 2013 or upon approval by the Centers of Medicaid and Medicare Services (CMS).

1           **SECTION 10.38.(b)** The Department shall provide a report on status and  
2 implementation progress by December 1, 2013.

3  
4 **MEDICAID**

5           **SECTION 10.39.(a)** Use of Funds, Allocation of Costs, Other Authorizations. –

6           (1) Use of funds. – Funds appropriated in this act for services provided in  
7 accordance with Title XIX of the Social Security Act (Medicaid) are for both  
8 the categorically needy and the medically needy.

9           (2) Allocation of nonfederal cost of Medicaid. – The State shall pay one  
10 hundred percent (100%) of the nonfederal costs of all applicable services  
11 listed in this section. In addition, the State shall pay one hundred percent  
12 (100%) of the federal Medicare Part D clawback payments under the  
13 Medicare Modernization Act of 2004.

14           (3) Use of funds for development and acquisition of equipment and software. –  
15 If first approved by the Office of State Budget and Management, the  
16 Division of Medical Assistance, Department of Health and Human Services,  
17 may use funds that are identified to support the cost of development and  
18 acquisition of equipment and software and related operational costs through  
19 contractual means to improve and enhance information systems that provide  
20 management information and claims processing. The Department of Health  
21 and Human Services shall identify adequate funds to support the  
22 implementation and first year's operational costs that exceed funds allocated  
23 for the new contract for the fiscal agent for the Medicaid Management  
24 Information System.

25           (4) Reports. – Unless otherwise provided, whenever the Department of Health  
26 and Human Services is required by this section to report to the General  
27 Assembly, the report shall be submitted to the House of Representatives  
28 Appropriations Subcommittee on Health and Human Services, the Senate  
29 Appropriations Committee on Health and Human Services, and the Fiscal  
30 Research Division of the Legislative Services Office. Reports shall be  
31 submitted on the date provided in the reporting requirement.

32           (5) Medicaid as secondary payor claims. – The Department shall apply  
33 Medicaid medical policy to recipients who have primary insurance other  
34 than Medicare, Medicare Advantage, and Medicaid. The Department shall  
35 pay an amount up to the actual coinsurance or deductible or both, in  
36 accordance with the State Plan, as approved by the Department of Health  
37 and Human Services. The Department may disregard application of this  
38 policy in cases where application of the policy would adversely affect  
39 patient care.

40           **SECTION 10.39.(b)** Policy. –

41           (1) Volume purchase plans and single source procurement. – The Department of  
42 Health and Human Services, Division of Medical Assistance, may, subject to  
43 the approval of a change in the State Medicaid Plan, contract for services,  
44 medical equipment, supplies, and appliances by implementation of volume  
45 purchase plans, single source procurement, or other contracting processes in  
46 order to improve cost containment.

47           (2) Cost-containment programs. – The Department of Health and Human  
48 Services, Division of Medical Assistance, may undertake cost-containment  
49 programs, including contracting for services, preadmissions to hospitals, and  
50 prior approval for certain outpatient surgeries before they may be performed  
51 in an inpatient setting.

- 1 (3) Fraud and abuse. – The Division of Medical Assistance, Department of  
2 Health and Human Services, shall provide incentives to counties that  
3 successfully recover fraudulently spent Medicaid funds by sharing State  
4 savings with counties responsible for the recovery of the fraudulently spent  
5 funds.
- 6 (4) Medical policy changes. – Unless required for compliance with federal law,  
7 the Department shall not change medical policy affecting the amount,  
8 sufficiency, duration, and scope of health care services and who may provide  
9 services until the Division of Medical Assistance has prepared a five-year  
10 fiscal analysis documenting the increased cost of the proposed change in  
11 medical policy and submitted it for departmental review. If the fiscal impact  
12 indicated by the fiscal analysis for any proposed medical policy change  
13 exceeds three million dollars (\$3,000,000) in total requirements for a given  
14 fiscal year, then the Department shall submit the proposed medical policy  
15 change with the fiscal analysis to the Office of State Budget and  
16 Management and the Fiscal Research Division. The Department shall not  
17 implement any proposed medical policy change exceeding three million  
18 dollars (\$3,000,000) in total requirements for a given fiscal year unless the  
19 source of State funding is identified and approved by the Office of State  
20 Budget and Management. For medical policy changes exceeding three  
21 million dollars (\$3,000,000) in total requirements for a given fiscal year that  
22 are required for compliance with federal law, the Department shall submit  
23 the proposed medical policy or policy interpretation change with the  
24 five-year fiscal analysis to the Office of State Budget and Management prior  
25 to implementing the change. The Department shall provide the Office of  
26 State Budget and Management and the Fiscal Research Division a report  
27 itemizing all medical policy changes with total requirements of less than  
28 three million dollars (\$3,000,000) by October 15th of each year for the  
29 previous two calendar quarters and by April 15th of each year for the  
30 previous two calendar quarters.
- 31 (5) Posting of notices of changes on Department Web site. – For any public  
32 notice of change required pursuant to the provisions of 42 C.F.R. § 447.205,  
33 the Department shall, no later than seven business days after the date of  
34 publication, publish the same notice on its Web site on the same Web page  
35 as it publishes State Plan amendments, and the notice shall remain on the  
36 Web site continuously for 90 days.  
37 At least 30 days prior to the adoption of new or amended medical coverage  
38 policies necessitated by the reductions to the Medicaid program enacted in  
39 this act, the Department shall (i) publish the proposed new or amended  
40 medical coverage policies via the Medicaid Bulletin published on the  
41 Department's Web site, which shall include an invitation to readers to send  
42 written comments on the proposed new or amended policies to the  
43 Department's mailing address, including e-mail, (ii) notify via direct mail the  
44 members of the Physician Advisory Group (PAG) of the proposed policies,  
45 (iii) update the policies published on the Web site to reflect any changes  
46 made as a result of written comments received from the PAG and others, and  
47 (iv) provide written notice to recipients about changes in policy.
- 48 (6) Electronic transactions. – Medicaid providers shall follow the Department's  
49 established procedures for securing electronic payments, and the Department  
50 shall not provide routine provider payments by check. Medicaid providers  
51 shall file claims electronically, except that nonelectronic claims submission



1 may be required when it is in the best interest of the Department. Medicaid  
2 providers shall submit Preadmission Screening and Annual Resident  
3 Reviews (PASARR) through the Department's Web-based tool or through a  
4 vendor with interface capability to submit data into the Web-based  
5 PASARR.

6 Providers shall submit requests for prior authorizations electronically via the  
7 vendor's Web site. Providers shall access their authorizations via online  
8 portals rather than receiving hard copies by mail. Recipients shall continue  
9 to receive adverse decisions via certified mail. Providers shall receive copies  
10 electronically. Once Web portal is live for provider enrollment, providers  
11 shall submit their provider enrollment applications online. Thereafter, the  
12 Department shall accept electronic signatures, rather than require receipt of  
13 signed hard copies.

14 (7) Medicaid identification cards. – The Department shall issue Medicaid  
15 identification cards to recipients on an annual basis with updates as needed

16 (8) As a condition of participation in the North Carolina Medicaid and North  
17 Carolina Health Choice Programs, prior to submitting an initial application  
18 for enrollment providers shall submit an attestation, complete trainings and  
19 pay fees associated with such trainings.

20 (9) Provider application fee. – Effective September 1, 2009, the Department of  
21 Health and Human Services, Division of Medical Assistance, shall charge an  
22 application fee of one hundred dollars (\$100.00), and the amount federally  
23 required, to each provider enrolling in the Medicaid program for the first  
24 time. The fee shall be charged to all providers at recertifying every three  
25 years.

26 (10) Billing Agent, Clearinghouse and Alternate Payee; Registration  
27 Required-Effective July 1, 2012, as a condition of participation in the North  
28 Carolina Medicaid and North Carolina Health Choice Programs, in  
29 accordance with S.L. 2011-399, prior to submitting claims all billing agents,  
30 clearinghouses and alternate payees will register with the Division of  
31 Medical Assistance, and pay fees associated with enrollment in the registry.  
32 Providers that fail to register shall be excluded for a period of not to exceed  
33 one year.

34 (11) In order to ensure all claims presented by a provider for payment by the  
35 Department of Health and Human Services meet the Department's medical  
36 necessity criteria and all other applicable Medicaid, Health Choice, or other  
37 federal or State documentation requirements, a provider may be required to  
38 undergo prepayment claims review by DHHS. Claims reviews conducted  
39 pursuant to this section shall be in accordance with the provisions of the  
40 Patient Protection and Affordable Care Act, P.L. 111-148, and any  
41 implementing regulations.

42 **SECTION 10.39.(c) Eligibility.** – Eligibility for Medicaid shall be determined in  
43 accordance with the following:

- 44 (1) Medicaid and Work First Family Assistance. –  
45 a. Income eligibility standards. – The maximum net family annual  
46 income eligibility standards for Medicaid and Work First Family  
47 Assistance and the Standard of Need for Work First Family  
48 Assistance shall be as follows:

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50 **CATEGORICALLY**  
51 **NEEDY – WFFA\***

**MEDICALLY**  
**NEEDY**

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Family Size	Families and Children Income Level	Standard of Need	WFFA* Payment Level	& Children AA, AB, AD* Income Level
1	\$4,344		\$2,172	\$2,900
2	5,664		2,832	3,800
3	6,528		3,264	4,400
4	7,128		3,564	4,800
5	7,776		3,888	5,200
6	8,376		4,188	5,600
7	8,952		4,476	6,000
8	9,256		4,680	6,300

\*Work First Family Assistance (WFFA); Aid to the Aged (AA); Aid to the Blind (AB); and Aid to the Disabled (AD).

- b. The payment level for Work First Family Assistance shall be fifty percent (50%) of the standard of need. These standards may be changed with the approval of the Director of the Budget.
  - c. The Department of Health and Human Services shall provide Medicaid coverage to 19- and 20-year-olds in accordance with federal rules and regulations.
  - d. Medicaid enrollment of categorically needy families with children shall be continuous for one year without regard to changes in income or assets.
- (2) For the following Medicaid eligibility classifications for which the federal poverty guidelines are used as income limits for eligibility determinations, the income limits will be updated each April 1 immediately following publication of federal poverty guidelines. The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to the following:
- a. All elderly, blind, and disabled people who have incomes equal to or less than one hundred percent (100%) of the federal poverty guidelines.
  - b. Pregnant women with incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines and without regard to resources. Services to pregnant women eligible under this subsection continue throughout the pregnancy but include only those related to pregnancy and to those other conditions determined by the Department as conditions that may complicate pregnancy.
  - c. Infants under the age of one with family incomes equal to or less than two hundred percent (200%) of the federal poverty guidelines and without regard to resources.
  - d. Children aged one through five with family incomes equal to or less than two hundred percent (200%) of the federal poverty guidelines and without regard to resources.

- 1 e. Children aged six through 18 with family incomes equal to or less
- 2 than one hundred percent (100%) of the federal poverty guidelines
- 3 and without regard to resources.
- 4 f. Family planning services to men and women of childbearing age
- 5 with family incomes equal to or less than one hundred eighty-five
- 6 percent (185%) of the federal poverty guidelines and without regard
- 7 to resources.
- 8 g. Workers with disabilities described in G.S. 108A-54.1 with unearned
- 9 income equal to or less than one hundred fifty percent (150%) of the
- 10 federal poverty guidelines.

11 (3) The Department of Health and Human Services, Division of Medical  
 12 Assistance, shall provide Medicaid coverage to adoptive children with  
 13 special or rehabilitative needs, regardless of the adoptive family's income.

14 (4) The Department of Health and Human Services, Division of Medical  
 15 Assistance, shall provide Medicaid coverage to "independent foster care  
 16 adolescents," ages 18, 19, and 20, as defined in section 1905(w)(1) of the  
 17 Social Security Act (42 U.S.C. § 1396d(w)(1)), without regard to the  
 18 adolescent's assets, resources, or income levels.

19 (5) ICF and ICF/MR work incentive allowances. – The Department of Health  
 20 and Human Services may provide an incentive allowance to  
 21 Medicaid-eligible recipients of ICF and ICF/MR services who are regularly  
 22 engaged in work activities as part of their developmental plan and for whom  
 23 retention of additional income contributes to their achievement of  
 24 independence. The State funds required to match the federal funds that are  
 25 required by these allowances shall be provided from savings within the  
 26 Medicaid budget or from other unbudgeted funds available to the  
 27 Department. The incentive allowances may be as follows:

28 Monthly Net Wages	Monthly Incentive Allowance
29 \$1.00 to \$100.99	Up to \$50.00
30 \$101.00 to \$200.99	\$80.00
31 \$201.00 to \$300.99	\$130.00
32 \$301.00 and greater	\$212.00

33 (6) The Department of Health and Human Services, Division of Medical  
 34 Assistance, shall provide Medicaid coverage to women who need treatment  
 35 for breast or cervical cancer and who are defined in 42 U.S.C. §  
 36 1396a.(a)(10)(A)(ii)(XVIII).

37 **SECTION 10.39.(d)** Services and Payment Bases. – The Department shall spend  
 38 funds appropriated for Medicaid services in accordance with the following schedule of services  
 39 and payment bases. Unless otherwise provided, services and payment bases will be as  
 40 prescribed in the State Plan as established by the Department of Health and Human Services  
 41 and may be changed with the approval of the Director of the Budget.

42 The Department of Health and Human Services (DHHS) shall operate and manage the  
 43 Medicaid program within the annual State appropriation. DHHS shall establish policies,  
 44 practices, rates, and expenditure procedures that are in compliance with CMS regulations and  
 45 approved State Plans, State laws, and regulations.

46 Additionally, the Department shall be required to use the Physician's Advisory Group for  
 47 review and will collaborate with other stakeholder groups in the adoption and implementation  
 48 of all clinical and payment policies, including all public notice and posting provisions in use as  
 49 of the effective date of this provision.

50 (1) **Mandatory Services.** – In order to manage the Medicaid program within the  
 51 annual State appropriation, the Secretary shall have the authority to submit

- 1 State Plan amendments and establish temporary rules affecting the amount  
2 of service and payment rate for the following mandatory services:
- 3 a. Hospital inpatient. – Payment for hospital inpatient services will be  
4 prescribed by the State Plan as established by the Department of  
5 Health and Human Services.
- 6 b. Hospital outpatient. – Eighty percent (80%) of allowable costs or a  
7 prospective reimbursement plan as established by the Department of  
8 Health and Human Services. Effective October 1, 2013, hospital  
9 outpatient – seventy percent (70%) of allowable costs or a  
10 prospective reimbursement plan as established by the Department of  
11 Health and Human Services.
- 12 c. Nursing facilities. – Nursing facilities providing services to Medicaid  
13 recipients who also qualify for Medicare must be enrolled in the  
14 Medicare program as a condition of participation in the Medicaid  
15 program. State facilities are not subject to the requirement to enroll in  
16 the Medicare program. Residents of nursing facilities who are  
17 eligible for Medicare coverage of nursing facility services must be  
18 placed in a Medicare-certified bed. Medicaid shall cover facility  
19 services only after the appropriate services have been billed to  
20 Medicare.
- 21 d. Physicians, certified nurse midwife services, nurse practitioners,  
22 physician assistants. – Fee schedules as developed by the Department  
23 of Health and Human Services. The Department shall reimburse  
24 certified nurse midwives, nurse practitioners, and physician assistants  
25 at 85 percent of the Medicaid physician fee schedule to mirror the  
26 Medicare payment methodology.
- 27 e. EPSDT screens. – Payments in accordance with rate schedule  
28 developed by the Department of Health and Human Services.
- 29 f. Home health and related services, durable medical equipment. –  
30 Payments according to reimbursement plans developed by the  
31 Department of Health and Human Services.
- 32 g. Rural health clinical services. – Provider-based, reasonable cost,  
33 nonprovider-based, single-cost reimbursement rate per clinic visit.
- 34 h. Family planning. – Negotiated rate for local health departments. For  
35 other providers see specific services, e.g., hospitals, physicians.
- 36 i. Independent laboratory and X-ray services. – Uniform fee schedules  
37 as developed by the Department of Health and Human Services.
- 38 j. Medicare Buy-In. – Social Security Administration premium.
- 39 k. Ambulance services. – Uniform fee schedules as developed by the  
40 Department of Health and Human Services. Public ambulance  
41 providers will be reimbursed at cost.
- 42 l. Medicare crossover claims. –The Division of Medical Assistance  
43 shall apply Medicaid medical policy to recipients who have primary  
44 insurance of Medicare and Medicare Advantage plans (Medicare) for  
45 dually eligible recipients.
- 46 1. For payment of Medicare crossover claims the Division of  
47 Medical Assistance shall pay the Medicaid allowable  
48 payment less the amount paid by Medicare but not to exceed  
49 the sum of the Medicare cost share.
- 50 2. Cost share is defined as the sum of coinsurance, deductible,  
51 and co-pay.

- 1 3. Medicaid's payment shall be the lesser of Medicaid net  
2 allowable or the Medicare cost share as define in  
3 sub-sub-subdivision 2.of this sub–subdivision.
- 4 4. Medicaid net allowable is calculated by reducing the  
5 Medicaid allowed minus Medicare cash payment minus the  
6 Medicare contractual adjustment minus patient medical  
7 liability.
- 8 5. This methodology shall apply to both Mandatory and  
9 Optional Medicaid covered services.
- 10 m. Pregnancy-related services. – Covered services for pregnant women  
11 shall include nutritional counseling, psychosocial counseling, and  
12 predelivery and postpartum home visits as described in clinical  
13 policy.
- 14 n. Mental health services. – Coverage is limited to children eligible for  
15 EPSDT services provided by:
  - 16 1. Licensed or certified psychologists, licensed clinical social  
17 workers, certified clinical nurse specialists in psychiatric  
18 mental health advanced practice, nurse practitioners certified  
19 as clinical nurse specialists in psychiatric mental health  
20 advanced practice, licensed psychological associates, licensed  
21 professional counselors, licensed marriage and family  
22 therapists, licensed clinical addictions specialists, and  
23 certified clinical supervisors, when Medicaid-eligible children  
24 are referred by the Community Care of North Carolina  
25 primary care physician, a Medicaid-enrolled psychiatrist, or  
26 the area mental health program or local management entity,  
27 and
  - 28 2. Institutional providers of residential services as defined by the  
29 Division of Mental Health, Developmental Disabilities, and  
30 Substance Abuse Services and approved by the Centers for  
31 Medicare and Medicaid Services (CMS) for children and  
32 Psychiatric Residential Treatment Facility services that meet  
33 federal and State requirements as defined by the Department.
  - 34 3. For the purpose of promoting cost-effective utilization of  
35 outpatient mental health services for children, DMA shall  
36 require prior authorization for outpatient services following  
37 the 16th visit
  - 38 4. MH residential. – The Department of Health and Human  
39 Services shall restructure the Medicaid child mental health,  
40 developmental disabilities, and substance abuse residential  
41 services to ensure that total expenditures are within budgeted  
42 levels. All restructuring activities shall be in compliance with  
43 federal and State law or rule. The Divisions of Medical  
44 Assistance and Mental Health, Developmental Disabilities,  
45 and Substance Abuse Services shall establish a team inclusive  
46 of providers, LMEs, and other stakeholders to assure effective  
47 transition of recipients to appropriate treatment options. The  
48 restructuring shall address all of the following:
    - 49 I. Submission of the therapeutic family service  
50 definition to CMS.

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- II. The Department shall reexamine the entrance and continued stay criteria for all residential services. The revised criteria shall promote least restrictive services in the home prior to residential placement. During treatment, there must be inclusion in community activities and parent or legal guardian participation in treatment.
  - III. Require all existing residential providers or agencies to be nationally accredited within one year of enactment of this act. Any providers enrolled after the enactment of this act shall be subject to existing endorsement and nationally accrediting requirements. In the interim, providers who are nationally accredited will be preferred providers for placement considerations.
  - IV. Before a child can be admitted to Level III or Level IV placement, an assessment shall be completed to ensure the appropriateness of placement, and one or more of the following shall apply:
    - A. Placement shall be a step down from a higher level placement such as a psychiatric residential treatment facility or inpatient facility.
    - B. Multisystemic therapy or intensive in-home therapy services have been unsuccessful.
    - C. The Child and Family Team has reviewed all other alternatives and recommendations and recommends Level III or Level IV placement due to maintaining health and safety.
    - D. Transition or discharge plan shall be submitted as part of the initial or concurrent request.
  - V. Length of stay is limited to no more than 180 days. Any exceptions granted will require (i) for non-CABHAs, an independent psychological or psychiatric assessment, (ii) for CABHAs, a psychological or psychiatric assessment that may be completed by the CABHA, and (iii) for both, a Child and Family Team review of goals and treatment progress, that family or discharge placement setting are actively engaged in treatment goals and objectives, and active participation of the prior authorization of vendor.
  - VI. Submission of discharge plan is required in order for the request for authorization for Level III or Level IV services to be considered complete, but the authorization approval is not conditional upon the receipt of the signature of the system of care coordinator. The LME will designate appropriate individuals who can sign the discharge plan within 24 hours of receipt of the discharge plan. Failure to

- 1 submit a complete discharge plan will result in the  
2 request being returned as unable to process.
- 3 VII. Any residential provider that ceases to function as a  
4 provider shall provide written notification to DMA,  
5 the Local Management Entity, recipients, and the  
6 prior authorization vendor 30 days prior to closing of  
7 the business.
- 8 VIII. Record maintenance is the responsibility of the  
9 provider and must be in compliance with record  
10 retention requirements. Records shall also be available  
11 to State, federal, and local agencies.
- 12 IX. Failure to comply with notification, recipient  
13 transition planning, or record maintenance shall be  
14 grounds for withholding payment until such activity is  
15 concluded. In addition, failure to comply shall be  
16 conditions that prevent enrollment for any Medicaid  
17 or State-funded service. A provider (including its  
18 officers, directors, agents, or managing employees or  
19 individuals or entities having a direct or indirect  
20 ownership interest or control interest of five percent  
21 (5%) or more as set forth in Title XI of the Social  
22 Security Act) that fails to comply with the required  
23 record retention may be subject to sanctions, including  
24 exclusion from further participation in the Medicaid  
25 program, as set forth in Title XI.
- 26 (2) Optional Services. – In order to manage the Medicaid program within the  
27 annual State appropriation, the Secretary shall have the authority to submit  
28 State Plan amendments and establish temporary rules affecting the amount  
29 of service, payment rate, or elimination of the following optional services:
- 30 a. Certified registered nurse anesthetists shall be reimbursed at 85  
31 percent of the Medicaid physician fee schedule to mirror the  
32 Medicare payment methodology.
- 33 b. Community Alternative Programs.
- 34 c. Hearing aids. – Wholesale cost plus dispensing fee to provider.
- 35 d. Ambulatory surgical centers.
- 36 e. Private duty nursing, clinic services, prepaid health plans.
- 37 f. Intermediate care facilities for the mentally retarded.
- 38 g. Chiropractors, podiatrists, optometrists, dentists.
- 39 h. Dental coverage. – Dental services shall be provided on a restricted  
40 basis in accordance with criteria adopted by the Department to  
41 implement this subsection.
- 42 i. Optical supplies. – Payment for materials is made to a contractor in  
43 accordance with 42 C.F.R. § 431.54(d). Fees paid to dispensing  
44 providers are negotiated fees established by the State agency based  
45 on industry charges.
- 46 j. Physical therapy, occupational therapy, and speech therapy. –  
47 Services for adults. Payments are to be made only to qualified  
48 providers at rates negotiated by the Department of Health and Human  
49 Services.
- 50 k. Personal care services. – Payment in accordance with the State Plan  
51 developed by the Department of Health and Human Services.

- 1           l.       Case management services. – Reimbursement in accordance with the  
2           availability of funds to be transferred within the Department of  
3           Health and Human Services.
- 4           m.       Hospice and palliative care.
- 5           n.       Medically necessary prosthetics or orthotics. – In order to be eligible  
6           for reimbursement, providers must be licensed or certified by the  
7           occupational licensing board or the certification authority having  
8           authority over the provider's license or certification. Medically  
9           necessary prosthetics and orthotics are subject to prior approval and  
10          utilization review.
- 11          o.       Health insurance premiums.
- 12          p.       Medical care/other remedial care. – Services not covered elsewhere  
13          in this section include related services in schools; health professional  
14          services provided outside the clinic setting to meet maternal and  
15          infant health goals.
- 16          q.       Bariatric surgeries. – Covered as described in clinical policy 1A-15,  
17          Surgery for Clinically Severe Obesity. In order to raise the standard  
18          of bariatric care in North Carolina, approval for bariatric procedures  
19          shall be granted only to those providers who are privileged to provide  
20          bariatric procedures in a facility that is designated as a Bariatric  
21          Surgery Center of Excellence (BSCOE).
- 22          r.       Drugs. –
- 23            1.       Reimbursements. – Reimbursements shall be available for  
24            prescription drugs as allowed by federal regulations plus a  
25            professional services fee per month, excluding refills for the  
26            same drug or generic equivalent during the same month.  
27            Payments for drugs are subject to the provisions of this  
28            subdivision or in accordance with the State Plan adopted by  
29            the Department of Health and Human Services, consistent  
30            with federal reimbursement regulations. Payment of the  
31            professional services fee shall be made in accordance with the  
32            State Plan adopted by the Department of Health and Human  
33            Services, consistent with federal reimbursement regulations.  
34            The professional services fee shall be established by the  
35            Department. In addition to the professional services fee, the  
36            Department may pay an enhanced fee for pharmacy services.
- 37            2.       Limitations on quantity. – The Department of Health and  
38            Human Services may establish authorizations, limitations,  
39            and reviews for specific drugs, drug classes, brands, or  
40            quantities in order to manage effectively the Medicaid  
41            program. The Department may impose prior authorization  
42            requirements on brand-name drugs for which the phrase  
43            "medically necessary" is written on the prescription.
- 44            3.       Dispensing of generic drugs. – Notwithstanding  
45            G.S. 90-85.27 through G.S. 90-85.31, or any other law to the  
46            contrary, under the Medical Assistance Program (Title XIX  
47            of the Social Security Act), and except as otherwise provided  
48            in this subsection for drugs listed in the narrow therapeutic  
49            index, a prescription order for a drug designated by a trade or  
50            brand name shall be considered to be an order for the drug by  
51            its established or generic name, except when the prescriber



1 has determined, at the time the drug is prescribed, that the  
2 brand-name drug is medically necessary and has written on  
3 the prescription order the phrase "medically necessary." An  
4 initial prescription order for a drug listed in the narrow  
5 therapeutic drug index that does not contain the phrase  
6 "medically necessary" shall be considered an order for the  
7 drug by its established or generic name, except that a  
8 pharmacy shall not substitute a generic or established name  
9 prescription drug for subsequent brand or trade name  
10 prescription orders of the same prescription drug without  
11 explicit oral or written approval of the prescriber given at the  
12 time the order is filled. Generic drugs shall be dispensed at a  
13 lower cost to the Medical Assistance Program rather than  
14 trade or brand-name drugs. Notwithstanding this subdivision  
15 to the contrary, the Secretary of Health and Human Services  
16 may prevent substitution of a generic equivalent drug,  
17 including a generic equivalent that is on the State maximum  
18 allowable cost list, when the net cost to the State of the  
19 brand-name drug, after consideration of all rebates, is less  
20 than the cost of the generic equivalent. As used in this  
21 subsection, "brand name" means the proprietary name the  
22 manufacturer places upon a drug product or on its container,  
23 label, or wrapping at the time of packaging; and "established  
24 name" has the same meaning as in section 502(e)(3) of the  
25 Federal Food, Drug, and Cosmetic Act, as amended, 21  
26 U.S.C. § 352(e)(3).

27 4. Specialty drug provider network. – The Department of Health  
28 and Human Services shall work with specialty drug  
29 providers, manufacturers of specialty drugs, Medicaid  
30 recipients who are prescribed specialty drugs, and the medical  
31 professionals that treat Medicaid recipients who are  
32 prescribed specialty drugs to develop ways to ensure that best  
33 practices and the prevention of overutilization are maintained  
34 in the delivery and utilization of specialty drugs.

35 5. Lock controlled substances prescriptions into single  
36 pharmacy/provider. – The Department of Health and Human  
37 Services, Division of Medical Assistance, shall lock Medicaid  
38 enrollees into a single pharmacy and provider when the  
39 Medicaid enrollee's utilization of selected controlled  
40 substance medications meets the lock-in criteria approved by  
41 the North Carolina Physicians Advisory Group, as follows:

42 I. Enrollees may be prescribed selected controlled  
43 substance medications by only one prescribing  
44 physician and may not change the prescribing  
45 physician at any time without prior approval or  
46 authorization by the Division.

47 II. Enrollees may have prescriptions for selected  
48 controlled substance medications filled at only one  
49 pharmacy and may not change to another pharmacy at  
50 any time without prior approval or authorization by  
51 the Division.

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- 5A. Prior authorization. – The Department of Health and Human Services may impose prior authorization requirements and other restrictions on medications prescribed for Medicaid and Health Choice recipients for the treatment of HIV/AIDS and mental illness, including, but not limited to, medications for schizophrenia, bipolar disorder, and major depressive disorder, and other medications prescribed for the treatment of mental illness on the Preferred Drug List (PDL). The Department of Health and Human Services, Division of Medical Assistance, may initiate prior authorization for the prescribing of drugs specified for the treatment of mental illness by providers who fail to prescribe those drugs in accordance with indications and dosage levels approved by the federal Food and Drug Administration.
6. Preferred Drug List. – The Department of Health and Human Services shall establish and implement a preferred drug list program under the Division of Medical Assistance. Medications prescribed for the treatment of mental illness shall be included on the Preferred Drug List (PDL). The pharmaceutical and therapeutics committee of the Physician's Advisory Group (PAG) shall provide ongoing review of the preferred drug list, including the implementation of prior authorization on identified drugs. Members of the committee shall submit conflict of interest disclosure statements to the Department and shall have an ongoing duty to disclose conflicts of interest not included in the original disclosure. The Department, in consultation with the PAG, shall adopt and publish policies and procedures relating to the preferred drug list, including the following:
- I. Guidelines for the presentation and review of drugs for inclusion on the preferred drug list.
  - II. The manner and frequency of audits of the preferred drug list for appropriateness of patient care and cost-effectiveness.
  - III. An appeals process for the resolution of disputes.
  - IV. Such other policies and procedures as the Department deems necessary and appropriate.
- The Department and the pharmaceutical and therapeutics committee shall consider all therapeutic classes of prescription drugs for inclusion on the preferred drug list, except medications for treatment of human immunodeficiency virus or acquired immune deficiency syndrome shall not be subject to consideration for inclusion on the preferred drug list. The Department shall maintain an updated preferred drug list in electronic format and shall make the list available to the public on the Department's Internet Web site. The Department shall (i) enter into a multistate purchasing pool; (ii) negotiate directly with manufacturers or labelers; (iii) contract with a pharmacy benefit manager for negotiated

1 discounts or rebates for all prescription drugs under the  
2 medical assistance program; or (iv) effectuate any  
3 combination of these options in order to achieve the lowest  
4 available price for such drugs under such program.  
5 The Department may negotiate supplemental rebates from  
6 manufacturers that are in addition to those required by Title  
7 XIX of the Social Security Act. The committee shall consider  
8 a product for inclusion on the preferred drug list if the  
9 manufacturer provides a supplemental rebate. The  
10 Department may procure a sole source contract with an  
11 outside entity or contractor to conduct negotiations for  
12 supplemental rebates.  
13 The Secretary of the Department of Health and Human  
14 Services shall establish a Preferred Drug List (PDL) Policy  
15 Review Panel to review the Medicaid PDL recommendations  
16 from the Department of Health and Human Services, Division  
17 of Medical Assistance, and the Physician Advisory Group  
18 Pharmacy and Therapeutics (PAG P&T) Committee.  
19 The Secretary shall appoint the following individuals to the  
20 review panel: (i) the Director of Pharmacy for the Division of  
21 Medical Assistance, (ii) a representative from the PAG P&T  
22 Committee, (iii) a representative from the Old North State  
23 Medical Society, (iv) a representative from the North  
24 Carolina Association of Pharmacists, (v) a representative  
25 from Community Care of North Carolina, (vi) a  
26 representative from the North Carolina Psychiatric  
27 Association, (vii) a representative from the North Carolina  
28 Pediatric Society, (viii) a representative from the North  
29 Carolina Academy of Family Physicians, (ix) a representative  
30 from the North Carolina Chapter of the American College of  
31 Physicians, (x) a representative from a research-based  
32 pharmaceutical company, (xi) a representative from a  
33 hospital-based pharmacy.  
34 Individuals appointed to the Review Panel, except for the  
35 Division's Director of Pharmacy, shall serve only a two-year  
36 term.  
37 After the Department, in consultation with the PAG P&T  
38 Committee, publishes a proposed policy or procedure related  
39 to the Medicaid PDL, the Review Panel shall hold an open  
40 meeting to review the recommended policy or procedure  
41 along with any written public comments received as a result  
42 of the posting. The Review Panel shall provide an opportunity  
43 for public comment at the meeting. After the conclusion of  
44 the meeting, the Review Panel shall submit policy  
45 recommendations about the proposed Medicaid PDL policy  
46 or procedure to the Secretary.  
47 The Department may establish a Preferred Drug List for the  
48 North Carolina Health Choice for Children program and  
49 pursue negotiated discounts or rebates for all prescription  
50 drugs under the program in order to achieve the lowest  
51 available price for such drugs under such program. The

1 Department may procure a sole source contract with an  
2 outside entity or contractor to conduct negotiations for these  
3 discounts or rebates. The PAG P&T Committee and Preferred  
4 Drug List Policy Review Panel will provide  
5 recommendations on policies and procedures for the NC  
6 Health Choice Preferred Drug List.

7 s. Incentive Payments as outlined in the State Medicaid Health  
8 Information Plan for Electronic Health Records.

9 t. Other mental health services. – Unless otherwise covered by this  
10 section, coverage is limited to the following:

11 1. Services as established by the Division of Medical Assistance  
12 in consultation with the Division of Mental Health,  
13 Developmental Disabilities, and Substance Abuse Services  
14 and approved by the Centers for Medicare and Medicaid  
15 Services (CMS) when provided in agencies meeting the  
16 requirements and reimbursement is made in accordance with  
17 a State Plan developed by the Department of Health and  
18 Human Services, not to exceed the upper limits established in  
19 federal regulations.

20 2. For Medicaid-eligible adults, services provided by licensed or  
21 certified psychologists, licensed clinical social workers,  
22 certified clinical nurse specialists in psychiatric mental health  
23 advanced practice, nurse practitioners certified as clinical  
24 nurse specialists in psychiatric mental health advanced  
25 practice, licensed psychological associates, licensed  
26 professional counselors, licensed marriage and family  
27 therapists, certified clinical addictions specialists, and  
28 licensed clinical supervisors may be self-referred.

29 3. Payments made for services rendered in accordance with this  
30 subdivision shall be qualified providers in accordance with  
31 approved policies and the State Plan. Nothing in subdivision  
32 shall be interpreted to modify the scope of practice of any  
33 service provider, practitioner, or licensee, nor to modify or  
34 attenuate any collaboration or supervision requirement related  
35 to the professional activities of any service provider,  
36 practitioner, or licensee. Nothing in this subdivision shall be  
37 interpreted to require any private health insurer or health plan  
38 to make direct third-party reimbursements or payments to any  
39 service provider, practitioner, or licensee.

40 4. Community Support Team. – Authorization for a Community  
41 Support Team shall be based upon medical necessity as  
42 defined by the Department and shall not exceed 18 hours per  
43 week

44 Notwithstanding G.S. 150B-21.1(a), the Department of Health and  
45 Human Services may adopt temporary rules in accordance with  
46 Chapter 150B of the General Statutes further defining the  
47 qualifications of providers and referral procedures in order to  
48 implement this subdivision. Coverage policy for services established  
49 by the Division of Medical Assistance in consultation with the  
50 Division of Mental Health, Developmental Disabilities, and

- 1 Substance Abuse Services under this subdivision shall be established  
2 by the Division of Medical Assistance.
- 3 u. Experimental/investigational medical procedures. – Coverage is  
4 limited to services, supplies, drugs, or devices recognized as standard  
5 medical care for the condition, disease, illness, or injury being treated  
6 as determined by nationally recognized scientific professional  
7 organizations or scientifically based federal organizations such as the  
8 Food and Drug Administration, the National Institutes of Health, the  
9 Centers for Disease Control, or the Agency for Health Care Research  
10 and Quality.
- 11 v. Clinical trials. – The Division of Medical Assistance shall develop  
12 clinical policy for the coverage of routine costs in clinical trial  
13 services for life-threatening conditions using resources such as  
14 coverage criteria from Medicare, NC State Health Plan, and the input  
15 of the Physicians Advisory Group.
- 16 w. Organ transplants.
- 17 x. Mobile health screenings and assessments – In order to receive  
18 reimbursement by the NC Medical Assistance program, mobile  
19 providers of health and dental screenings, assessments and  
20 preventive services must:
- 21 1. refer patients to an established provider of comprehensive  
22 care when follow up care is required;
  - 23 2. be linked through either ownership or a legally binding  
24 contract to a primary care, dental, or other provider with a  
25 permanent and fixed location;
  - 26 3. have electronic technology that enables the same day  
27 exchange of patient records with the provider of referral;
  - 28 4. have a service area that is limited to 100 miles in a rural  
29 setting and 50 miles in an urban setting from the primary  
30 provider to which they are linked.
- 31 (3) Never Events and Hospital Acquired Conditions (HACs) shall not be  
32 reimbursed. Medicaid will adhere to Medicare requirements for definition of  
33 events and conditions.

34 **SECTION 10.39.(e) Provider Performance Bonds and Visits. –**

- 35 (1) Subject to the provisions of this subdivision, the Department may require  
36 Medicaid-enrolled providers to purchase a performance bond in an amount  
37 not to exceed one hundred thousand dollars (\$100,000) naming as  
38 beneficiary the Department of Health and Human Services, Division of  
39 Medical Assistance, or provide to the Department a validly executed letter of  
40 credit or other financial instrument issued by a financial institution or agency  
41 honoring a demand for payment in an equivalent amount. The Department  
42 may require the purchase of a performance bond or the submission of an  
43 executed letter of credit or financial instrument as a condition of initial  
44 enrollment, reenrollment, or reinstatement if:
- 45 a. The provider fails to demonstrate financial viability.
  - 46 b. The Department determines there is significant potential for fraud  
47 and abuse.
  - 48 c. The Department otherwise finds it is in the best interest of the  
49 Medicaid program to do so.
- 50 The Department shall specify the circumstances under which a performance  
51 bond or executed letter of credit will be required.

- 1 (1a) The Department may waive or limit the requirements of this subsection for  
 2 individual Medicaid-enrolled providers or for one or more classes of  
 3 Medicaid-enrolled providers based on the following:  
 4 a. The provider's or provider class's dollar amount of monthly billings  
 5 to Medicaid.  
 6 b. The length of time an individual provider has been licensed,  
 7 endorsed, certified, or accredited in this State to provide services.  
 8 c. The length of time an individual provider has been enrolled to  
 9 provide Medicaid services in this State.  
 10 d. The provider's demonstrated ability to ensure adequate record  
 11 keeping, staffing, and services.  
 12 e. The need to ensure adequate access to care.

13 In waiving or limiting requirements of this subsection, the Department shall  
 14 take into consideration the potential fiscal impact of the waiver or limitation  
 15 on the State Medicaid Program. The Department shall provide to the affected  
 16 provider written notice of the findings upon which its action is based and  
 17 shall include the performance bond requirements and the conditions under  
 18 which a waiver or limitation apply. The Department may adopt temporary  
 19 rules in accordance with G.S. 150B-21.1 as necessary to implement this  
 20 provision.

- 21 (2) Reimbursement is available for up to 30 visits per recipient per fiscal year  
 22 for the following professional services: physicians, nurse practitioners, nurse  
 23 midwives, physician assistants, clinics, health departments, optometrists,  
 24 chiropractors, and podiatrists. The Department of Health and Human  
 25 Services shall adopt medical policies in accordance with G.S. 108A-54.2 to  
 26 distribute the allowable number of visits for each service or each group of  
 27 services consistent with federal law. In addition, the Department shall  
 28 establish a threshold of some number of visits for these services. The  
 29 Department shall ensure that primary care providers or the appropriate  
 30 CCNC network are notified when a patient is nearing the established  
 31 threshold to facilitate care coordination and intervention as needed.

32 Prenatal services, all EPSDT children, emergency room visits, and mental health visits  
 33 subject to independent utilization review are exempt from the visit limitations contained in this  
 34 subdivision. Subject to appropriate medical review, the Department may authorize exceptions  
 35 when additional care is medically necessary. Routine or maintenance visits above the  
 36 established visit limit will not be covered unless necessary to actively manage a life-threatening  
 37 disorder or as an alternative to more costly care options.

38 **SECTION 10.39.(f) Exceptions and Limitations on Services; Authorization of**  
 39 **Co-Payments and Other Services. –**

40 Exceptions to service limitations, eligibility requirements, and payments. – Service  
 41 limitations, eligibility requirements, and payment bases in this section may be waived by the  
 42 Department of Health and Human Services, with the approval of the Director of the Budget, to  
 43 allow the Department to carry out pilot programs for prepaid health plans, contracting for  
 44 services, managed care plans, or community-based services programs in accordance with plans  
 45 approved by the United States Department of Health and Human Services or when the  
 46 Department determines that such a waiver or innovation projects will result in a reduction in  
 47 the total Medicaid costs.

48 Co-payment for Medicaid services. – The Department of Health and Human Services may  
 49 establish co-payments up to the maximum permitted by federal law and regulation.

50 **SECTION 10.39.(g) Rules, Reports, and Other Matters. –**

1 Rules. – The Department of Health and Human Services may adopt temporary or  
2 emergency rules according to the procedures established in G.S. 150B-21.1 and  
3 G.S. 150B-21.1A when it finds that these rules are necessary to maximize receipt of federal  
4 funds within existing State appropriations, to reduce Medicaid expenditures, and to reduce  
5 fraud and abuse. The Department of Health and Human Services shall adopt rules requiring  
6 providers to attend training as a condition of enrollment and may adopt temporary or  
7 emergency rules to implement the training requirement.

8 Prior to the filing of the temporary or emergency rules authorized under this subsection  
9 with the Rules Review Commission and the Office of Administrative Hearings, the Department  
10 shall consult with the Office of State Budget and Management on the possible fiscal impact of  
11 the temporary or emergency rule and its effect on State appropriations and local governments.

12 Any changes to the Medicaid program that must receive federal approval from the Centers  
13 for Medicare and Medicaid Services (CMS) in the North Carolina State Plan are exempt from  
14 rulemaking. The Department shall send a copy of the state plan amendment and fiscal note to  
15 the Office of State Budget and Management at the same time it submits a state plan amendment  
16 to CMS. All clinical policy, including components required to implement the policy such as  
17 provider qualifications and documentation standards, are subject to the approval of the North  
18 Carolina Physicians' Advisory Group.

19 The Department of Health and Human Services shall not implement any actions directed by  
20 this act if the Department determines that such actions would jeopardize the receipt of federal  
21 funds appropriated or allocated to the Department.

## 22 23 **MEDICAID COST CONTAINMENT ACTIVITIES**

24 **SECTION 10.40.(a)** The Department of Health and Human Services may use up to  
25 five million dollars (\$5,000,000) in the 2013-2014 fiscal year and up to five million dollars  
26 (\$5,000,000) in the 2014-2015 fiscal year in Medicaid funds budgeted for program services to  
27 support the cost of administrative activities when cost-effectiveness and savings are  
28 demonstrated. The funds shall be used to support activities that will contain the cost of the  
29 Medicaid Program, including contracting for services, hiring additional staff, funding pilot  
30 programs, Health Information Exchange and Health Information Technology (HIE/HIT)  
31 administrative activities, or providing grants through the Office of Rural Health and  
32 Community Care to plan, develop, and implement cost containment programs.

33 Medicaid cost containment activities may include preparation and planning activities for the  
34 Partnership for a Health North Carolina initiative, prospective reimbursement methods,  
35 incentive-based reimbursement methods, service limits, prior authorization of services, periodic  
36 medical necessity reviews, revised medical necessity criteria, service provision in the least  
37 costly settings, plastic magnetic-stripped Medicaid identification cards for issuance to Medicaid  
38 enrollees, fraud detection software or other fraud detection activities, technology that improves  
39 clinical decision making, credit balance recovery and data mining services, and other cost  
40 containment activities. Funds may be expended under this section only after the Office of State  
41 Budget and Management has approved a proposal for the expenditure submitted by the  
42 Department. Proposals for expenditure of funds under this section shall include the cost of  
43 implementing the cost containment activity and documentation of the amount of savings  
44 expected to be realized from the cost containment activity.

45 **SECTION 10.40.(b)** The Department shall report annually on the expenditures  
46 under this section to the House of Representatives Appropriations Subcommittee on Health and  
47 Human Services, the Senate Appropriations Committee on Health and Human Services, and the  
48 Fiscal Research Division. The report shall include the methods used to achieve savings and the  
49 amount saved by these methods. The report is due to the House and Senate Appropriations  
50 Subcommittees on Health and Human Services and the Fiscal Research Division not later than  
51 December 1 of each year for the activities of the previous State fiscal year.

**MEDICAID SPECIAL FUND TRANSFER**

**SECTION 10.41.** Of the funds transferred to the Department of Health and Human Services for Medicaid programs pursuant to G.S. 143C-9-1, there is appropriated from the Medicaid Special Fund to the Department of Health and Human Services the sum of forty-three million dollars (\$43,000,000) for the 2013-2014 fiscal year and the sum of forty-three million dollars (\$43,000,000) for the 2014-2015 fiscal year. These funds shall be allocated as prescribed by G.S. 143C-9-1(b) for Medicaid programs. Notwithstanding the prescription in G.S. 143C-9-1(b) that these funds not reduce State general revenue funding, these funds shall replace the reduction in general revenue funding effected in this act.

**NC HEALTH CHOICE MEDICAL POLICY**

**SECTION 10.42** Unless required for compliance with federal law, the Department shall not change medical policy affecting the amount, sufficiency, duration, and scope of NC Health Choice health care services and who may provide services until the Division of Medical Assistance has prepared a five-year fiscal analysis documenting the increased cost of the proposed change in medical policy and submitted it for departmental review. If the fiscal impact indicated by the fiscal analysis for any proposed medical policy change exceeds one million dollars (\$1,000,000) in total requirements for a given fiscal year, then the Department shall submit the proposed medical policy change with the fiscal analysis to the Office of State Budget and Management and the Fiscal Research Division. The Department shall not implement any proposed medical policy change exceeding one million dollars (\$1,000,000) in total requirements for a given fiscal year unless the source of State funding is identified and approved by the Office of State Budget and Management. For medical policy changes exceeding one million dollars (\$1,000,000) in total requirements for a given fiscal year that are required for compliance with federal law, the Department shall submit the proposed medical policy or policy interpretation change with a five-year fiscal analysis to the Office of State Budget and Management prior to implementing the change. The Department shall provide the Office of State Budget and Management and the Fiscal Research Division a report itemizing all medical policy changes with total requirements of less than one million dollars (\$1,000,000) by October 15th of each year for the previous two calendar quarters and by April 15th of each year for the previous two calendar quarters.

**PERSONAL CARE SERVICES/ADL ELIGIBILITY**

**SECTION 10.43.(a)** The Department of Health and Human Services, Division of Medical Assistance, may take the following actions, notwithstanding any other provision of this act or other State law or rule to the contrary:

- (1) Personal Care Services. The Department of Health and Human Services, Division of Medical Assistance (DMA), shall:
  - a. Provide services to assist families to meet the personal care needs of adults and children, including those individuals under the age of 21 receiving comprehensive and preventive child health services through the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program.
    - i. The beneficiary shall have a medical condition, disability, or cognitive impairment and demonstrates unmet needs for, at a minimum, (i) three of the five qualifying activities of daily living (ADLs) with limited hands-on assistance; (ii) two ADLs, one of which requires extensive assistance; or (iii) two ADLs, one of which requires assistance at the full dependence level.





- 1 written authorization for referral for the service and  
2 written attestation to the medical necessity for the  
3 service.
- 4 iii. The IAE shall determine and authorize the amount of  
5 service to be provided as determined by its review and  
6 findings of each beneficiary's degree of functional  
7 disability and level of unmet needs for personal care  
8 services in the five qualifying ADLs.
- 9 2. All assessments for the provision of services, continuation of  
10 these services, and change of status reviews for these services  
11 shall be performed by DMA or its designee. The DMA  
12 designee may not be an owner of a provider business or  
13 provider of personal care services of any type.
- 14 3. DMA or its designee shall determine and authorize the  
15 amount of service to be provided on a "needs basis," as  
16 determined by its review and findings of each beneficiary's  
17 degree of functional disability and level of unmet needs.
- 18 e. Take all appropriate actions to manage the cost, quality, program  
19 compliance, and utilization of personal care services, including, but  
20 not limited to:
- 21 1. Priority independent reassessment of beneficiaries before the  
22 anniversary date of their initial assessment.
- 23 2. Priority independent reassessment of beneficiaries requesting  
24 a change of service provider.
- 25 3. Targeted independent reassessments of beneficiaries prior to  
26 their anniversary dates when the current provider assessment  
27 indicates they may not qualify for personal care services or  
28 for the amount of services they are currently receiving.
- 29 4. Targeted independent reassessment of beneficiaries receiving  
30 services from providers with a history of noncompliance in  
31 providing personal care services to children.
- 32 5. The use of mandated electronic transmission of referral  
33 forms, plans of care, and reporting forms.
- 34 6. The use of mandated electronic transmission of uniform  
35 reporting forms for beneficiary complaints and critical  
36 incidents.
- 37 7. The use of automated systems to monitor, evaluate, and  
38 profile provider performance against established performance  
39 indicators.
- 40 8. Establishment of rules that implement the requirements of 42  
41 C.F.R. § 441.16.  
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#### 43 **TRANSFER TO OFFICE OF ADMINISTRATIVE HEARINGS**

44 **SECTION 10.44.** From funds available to the Department of Health and Human  
45 Services (Department) for the 2013-2014 fiscal year, the sum of one million dollars  
46 (\$1,000,000), and for the 2014-2015 fiscal year the sum of one million dollars (\$1,000,000),  
47 shall be transferred by the Department of Health and Human Services to the Office of  
48 Administrative Hearings (OAH). These funds shall be allocated by the OAH for mediation  
49 services provided for Medicaid applicant and recipient appeals and to contract for other  
50 services necessary to conduct the appeals process. OAH shall continue the Memorandum of  
51 Agreement (MOA) with the Department for mediation services provided for Medicaid recipient

1 appeals and contracted services necessary to conduct the appeals process. The MOA will  
 2 facilitate the Department's ability to draw down federal Medicaid funds to support this  
 3 administrative function. Upon receipt of invoices from OAH for covered services rendered in  
 4 accordance with the MOA, the Department shall transfer the federal share of Medicaid funds  
 5 drawn down for this purpose.

#### 7 **MEDICAID PROVIDER ASSESSMENTS**

8 **SECTION 10.45.** The Secretary of Health and Human Services may implement a  
 9 Medicaid assessment program for any willing provider category allowed under federal  
 10 regulations up to the maximum percentage allowed by federal regulation. The Department may  
 11 retain up to sixty-five percent (65%) of the amount from an assessment program implemented  
 12 after December 31, 2010, that can be used by the Department to support Medicaid  
 13 expenditures. Any assessment funds not retained by the Department shall be used to draw  
 14 federal Medicaid matching funds for implementing increased rates or new reimbursement plans  
 15 for each provider category being assessed.

16 Receipts from the assessment program are hereby appropriated for the 2013-2014 fiscal  
 17 year and the 2014-2015 fiscal year for the purposes set out in this section.

#### 19 **HOSPITAL ASSESSMENTS**

20 **SECTION 10.46(a)** G.S. 108A-121 reads as rewritten:

##### 21 "**§ 108A-121. Definitions.**

22 The following definitions apply in this Article:

- 23 (1) CMS. – Centers for Medicare and Medicaid Services.
- 24 (2) Critical access hospital. – Defined in 42 C.F.R. § 400.202.
- 25 (3) Department. – The Department of Health and Human Services.
- 26 (4) Equity assessment. – The assessment payable under G.S. 108A-123.
- 27 (5) Medicaid equity payment. – The amount required to be paid under  
 28 G.S. 108A-124.
- 29 (6) Public hospital. – A hospital that certifies its public expenditures to the  
 30 Department pursuant to 42 C.F.R. § 433.51(b) during the fiscal year for  
 31 which the assessment applies.
- 32 (7) Secretary. – The Secretary of Health and Human Services.
- 33 (8) State's annual Medicaid payment. —~~Forty three million dollars~~  
 34 ~~(\$43,000,000).~~ Twenty-eight and eighty-five hundredths percent (28.85%)  
 35 of the assessment.

36 ...."

37 **SECTION 10.46.(b)** G.S. 108A-124 reads as rewritten:

##### 38 "**§ 108A-124. Use of assessment proceeds.**

39 (a) Use. – The proceeds of the assessments imposed under this Article and all  
 40 corresponding matching federal funds must be used to make the State annual Medicaid  
 41 payment to the State and the Medicaid equity payments and UPL payments to hospitals.

42 (b) Quarterly Payments. – Within seven business days following of the due date for  
 43 each quarterly assessment imposed under G.S. 108A-123, the Secretary must do the following:

- 44 ~~(1) Transfer to the State Controller twenty five percent (25%) of the State's~~  
 45 ~~annual Medicaid payment amount.~~
- 46 ~~(2)~~(1) Pay to each hospital that has paid its equity assessment for the respective  
 47 quarter twenty-five percent (25%) of its Medicaid equity payment amount. A  
 48 hospital's Medicaid equity payment amount is the sum of the hospital's  
 49 Medicaid inpatient and outpatient deficits after calculating all other  
 50 Medicaid payments, excluding disproportionate share hospital payments and

the UPL payment remitted to the hospital under subdivision (3) of this subsection.

~~(3)~~(2) Pay to the primary affiliated teaching hospital for the East Carolina University Brody School of Medicine, to the critical access hospitals, and to each hospital that has paid its UPL assessment for the respective quarter twenty-five percent (25%) of its UPL payment amount, as determined under subsection (c) of this section.

(c) UPL Payment Amount. – The aggregate UPL payments made to eligible hospitals that are public hospitals is the sum of the UPL gaps for all public hospitals. The aggregate UPL payments made to eligible hospitals that are not public hospitals is the sum of the UPL gaps for these hospitals. UPL payments are payable to the individual hospitals in the ratio of each hospital's Medicaid inpatient costs to the total Medicaid inpatient costs for the respective group.

(d) Refund of Assessment. – If all or any part of a payment required to be made under this section is not made to one or more hospitals when due, the Secretary must promptly refund to each such hospital the corresponding assessment proceeds collected in proportion to the amount of assessment paid by that hospital."

**MEDICAID PROVIDER SCREENING**

**SECTION 10.47** G.S. 108C-3 reads as rewritten:

**"§ 108C-3. Medicaid and Health Choice Provider Screening.**

...

(c) Limited Categorical Risk Provider Types. – The following provider types are hereby designated as "limited" categorical risk:

...

- (16) Portable X-ray suppliers
- (17) Religious non-medical health care institutions
- (18) Registered dieticians
- (19) Clearinghouses, Billing Agents and Alternate Payees

...

(e) Moderate Categorical Risk Provider Types. – The following provider types are hereby designated as "moderate" categorical risk:

...

- (14) Local Health Departments
- (15) Non-Emergency Medical Transportation

...."

**STATE-COUNTY SPECIAL ASSISTANCE**

**SECTION 10.48.(a)** The maximum monthly rate for residents in adult care home facilities shall be one thousand one hundred eighty-two dollars (\$1,182) per month per resident unless adjusted by the Department in accordance with subsection (d) of this section. The eligibility of Special Assistance recipients residing in adult care homes on September 30, 2009, shall not be affected by an income reduction in the Special Assistance eligibility criteria resulting from the adoption of this maximum monthly rate, provided these recipients are otherwise eligible.

**SECTION 10.48.(b)** The maximum monthly rate for residents in Alzheimer/Dementia special care units shall be one thousand five hundred fifteen dollars (\$1,515) per month per resident unless adjusted by the Department in accordance with subsection (d) of this section.

**SECTION 10.48.(c)** Notwithstanding any other provision of this section, the Department of Health and Human Services shall review activities and costs related to the provision of care in adult care homes and shall determine what costs may be considered to properly maximize allowable reimbursement available through Medicaid personal care services

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

25 **SECTION 10.48.(d)** The Department of Health and Human Services shall  
 26 recommend rates for State-County Special Assistance and for Adult Care Home Personal Care  
 27 Services. The Department may recommend rates based on appropriate cost methodology and  
 28 cost reports submitted by adult care homes that receive State-County Special Assistance funds  
 29 and shall ensure that cost reporting is done for State-County Special Assistance and Adult Care  
 30 Home Personal Care Services to the same standards as apply to other residential service  
 31 providers.  
 32

33 **PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES**

34  
 35 **DHHS BLOCK GRANTS**

36 **SECTION 10.50.(a)** Appropriations from the federal block grant funds are made  
 37 for the fiscal year ending June 30, 2014, according to the following schedule:  
 38

39 **TEMPORARY ASSISTANCE TO NEEDY FAMILIES**  
 40 **(TANF) FUNDS**

41  
 42 Local Program Expenditures

43  
 44 Division of Social Services

45		
46	01. Work First Family Assistance	\$ 62,403,650
47		
48	02. Work First County Block Grants	82,485,495
49		
50	03. Work First Electing Counties	2,352,521
51		

1	04.	Adoption Services – Special Children's Adoption Fund	2,026,877
2			
3	05.	Child Protective Services – Child Welfare	
4		Workers for Local DSS	9,412,391
5			
6	06.	Child Welfare Collaborative	632,416
7			
8		Division of Child Development	
9			
10	07.	Subsidized Child Care Program	49,942,609
11			
12	08.	Swap Child Care Subsidy	6,352,644
13			
14		Division of Public Health	
15			
16	09.	Teen Pregnancy Initiatives	2,500,000
17			
18		DHHS Administration	
19			
20	10.	Division of Social Services	2,482,260
21			
22	11.	Office of the Secretary	34,042
23			
24		Transfers to Other Block Grants	
25			
26		Division of Child Development	
27			
28	12.	Transfer to the Child Care and Development Fund	71,773,001
29			
30	13.	Transfer to Social Services Block Grant for Child	
31		Protective Services – Child Welfare Training in	
32		Counties	1,300,000
33			
34	14.	Transfer to Social Services Block Grant for Child	
35		Protective Services	5,040,000
36			
37	15.	Transfer to Social Services Block Grant for County	
38		Departments of Social Services for Children's Services	4,148,001
39			
40		<b>TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES</b>	
41		<b>(TANF) FUNDS</b>	<b>\$ 302,885,907</b>
42			
43		<b>TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF)</b>	
44		<b>EMERGENCY CONTINGENCY FUNDS</b>	
45			
46		Local Program Expenditures	
47			
48		Division of Social Services	
49			
50	01.	Work First County Block Grants	\$ 5,940,835
51			

1	02.	Work First Electing Counties	25,692
2			
3	03.	Subsidized Child Care Programs	6,189,559
4			
5	TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF)		
6	EMERGENCY CONTINGENCY FUNDS		\$ 12,156,086
7			
8	<b>SOCIAL SERVICES BLOCK GRANT</b>		
9			
10	Local Program Expenditures		
11			
12	Divisions of Social Services and Aging and Adult Services		
13			
14	01.	County Departments of Social Services	\$ 31,799,210
15		(Transfer from TANF 4,148,001)	
16			
17	02.	Child Protective Services (Transfer from TANF)	5,040,000
18			
19	03.	State In-Home Services Fund	2,101,113
20			
21	04.	Adult Protective Services	1,346,047
22			
23	05.	State Adult Day Care Fund	2,155,301
24			
25	06.	Child Protective Services/CPS Investigative Services-	
26		Child Medical Evaluation Program	609,455
27			
28	07.	Special Children Adoption Incentive Fund	500,000
29			
30	08.	Child Protective Services-Child Welfare Training	
31		for Counties (Transfer from TANF)	1,300,000
32			
33	09.	Home and Community Care Block Grant (HCCBG)	1,834,077
34			
35	10.	Guardianship	4,300,000
36			
37	11.	UNC Cares Contract	247,920
38			
39	12.	Foster Care Services	1,497,138
40			
41	DHHS Program Expenditures		
42			
43	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services		
44			
45	13.	Mental Health Services-Adult and	
46		Child/Developmental Disabilities Program/	
47		Substance Abuse Services-Adult	4,356,604
48			
49	Division of Services for the Blind		
50			
51	14.	Independent Living Program	3,633,077

1		
2	Division of Health Service Regulation	
3		
4	15. Adult Care Licensure Program	411,897
5		
6	16. Mental Health Licensure and Certification Program	205,668
7		
8	DHHS Administration	
9		
10	17. Division of Aging and Adult Services	624,454
11		
12	18. Division of Social Services	604,311
13		
14	19. Office of the Secretary/Controller's Office	138,058
15		
16	20. Division of Child Development	15,000
17		
18	21. Division of Mental Health, Developmental	
19	Disabilities, and Substance Abuse Services	29,665
20		
21	22. Division of Health Service Regulation	128,562
22		
23	TOTAL SOCIAL SERVICES BLOCK GRANT	\$ 62,877,557
24		
25	<b>LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT</b>	
26		
27	Local Program Expenditures	
28		
29	Division of Social Services	
30		
31	01. Low-Income Energy Assistance Program (LIEAP)	\$ 50,799,293
32		
33	02. Crisis Intervention Program (CIP)	33,866,195
34		
35	Local Administration	
36		
37	Division of Social Services	
38		
39	03. County DSS Administration	6,757,731
40		
41	DHHS Administration	
42		
43	04. Office of the Secretary/DIRM	412,488
44		
45	05. Office of the Secretary/Controller's Office	18,378
46		
47	Transfers to Other State Agencies	
48		
49	Department of Commerce	
50		
51	06. Weatherization Program	14,947,789



1			
2	07.	Heating Air Repair and Replacement	
3		Program (HARRP)	7,193,873
4			
5	08.	Local Residential Energy Efficiency Service	
6		Providers – Weatherization	37,257
7			
8	09.	Local Residential Energy Efficiency Service	
9		Providers – HARRP	338,352
10			
11	10.	Department of Commerce Administration –	
12		Weatherization	37,257
13			
14	11.	Department of Commerce Administration –	
15		HARRP	338,352
16			
17		Department of Administration	
18			
19	12.	N.C. Commission on Indian Affairs	164,883
20			
21	TOTAL LOW-INCOME HOME ENERGY ASSISTANCE		
22	BLOCK GRANT		\$ 114,911,848
23			
24	<b>CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT</b>		
25			
26	Local Program Expenditures		
27			
28	Division of Child Development		
29			
30	01.	Child Care Services	\$ 156,566,345
31		(Smart Start \$7,000,000)	
32			
33	02.	Electronic Tracking System	3,000,000
34			
35	03.	Transfer from TANF Block Grant for Child Care Subsidies	71,773,001
36			
37	04.	Quality and Availability Initiatives	24,262,402
38		(TEACH Program \$3,800,000)	
39			
40	DHHS Administration		
41			
42	Division of Child Development		
43			
44	05.	DCDEE Administrative Expenses	6,000,000
45			
46	06.	Local Subsidized Child Care Services Support	
47		(3% Administrative Allowance)	13,274,413
48			
49	Division of Central Administration		
50			
51	07.	DHHS Central Administration – DIRM	

1	Technical Services	775,000
2		
3	TOTAL CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT	\$275,651,161
4		
5	<b>MENTAL HEALTH SERVICES BLOCK GRANT</b>	
6		
7	Local Program Expenditures	
8		
9	01. Mental Health Services – Adult	\$ 10,717,607
10		
11	02. Mental Health Services – Child	5,121,991
12		
13	03. Administration	200,000
14		
15	TOTAL MENTAL HEALTH SERVICES BLOCK GRANT	\$ 16,039,598
16		
17	<b>SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT</b>	
18		
19	Local Program Expenditures	
20		
21	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	
22		
23	01. Substance Abuse Services – Adult	\$ 14,960,371
24		
25	02. Substance Abuse Treatment Alternative for Women	6,050,300
26		
27	03. Substance Abuse – HIV and IV Drug	
28		3,919,723
29		
30	04. Substance Abuse Prevention – Child	7,186,857
31		
32	05. Substance Abuse Services – Child	4,190,500
33		
34	06. Administration	454,000
35		
36	Division of Public Health	
37		
38	07. Risk Reduction Projects	575,654
39		
40	08. Aid-to-Counties	190,295
41		
42	TOTAL SUBSTANCE ABUSE PREVENTION	
43	AND TREATMENT BLOCK GRANT	\$ 37,527,700
44		
45	<b>MATERNAL AND CHILD HEALTH BLOCK GRANT</b>	
46		
47	Local Program Expenditures	
48		
49	Division of Public Health	
50		
51	01. Children's Health Services	

1	(Children's Preventive Health Services	\$5,905,905;
2	Genetic Newborn Screening	\$1,397,504;
3	Best Practices in Children's Health	\$571,400;
4	School Health Services	
5		\$167,722)
6		\$ 8,042,531
7		
8	02. Women's Health	
9	(Maternal Health	\$3,186,734;
10	Family Planning	\$3,754,741;
11	Community Focus Infant Mortality	\$591,460;
12	Teen Pregnancy Prevention Initiatives	\$400,000;
13	Women's Health Public Education	\$600,000)
14		8,532,935
15		
16	03. Oral Health – Preventive Services	44,901
17		
18	DHHS Program Expenditures	
19		
20	Division of Public Health	
21		
22	04. Children's Health Services	
23	(Children's Preventive Health Service	\$344,097;
24	School Health Services	\$333,461;
25	Best Practices	
26	In Children's Health	\$122,961;
27	Genetic Newborn	
28		Screening
29		\$500,985)
30		1,301,504
31		
32	05. Women's Health – Maternal Health	105,419
33		
34	06. State Center for Health Statistics	164,487
35		
36	07. Health Promotion – Injury and Violence Prevention	89,374
37		
38	DHHS Administration	
39		
40	Division of Public Health	
41		
42	08. Division of Public Health Administration	573,108
43		
44	<b>TOTAL MATERNAL AND CHILD</b>	
45	<b>HEALTH BLOCK GRANT</b>	<b>\$ 18,854,259</b>
46		
47	<b>PREVENTIVE HEALTH SERVICES BLOCK GRANT</b>	
48		
49	Local Program Expenditures	
50		
51	Division of Public Health	

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01.	Physical Activity and Nutrition	1,331,961
02.	Injury and Violence Prevention (Services for Rape Victims Set-Aside)	169,730
DHHS Program Expenditures		
Division of Public Health		
03.	State Center for Health Statistics	61,406
04.	Oral Health Preventive Services	46,302
05.	Laboratory Services – Testing, Training, and Consultation	10,980
06.	Injury and Violence Prevention (Services for Rape Victims Set-Aside)	199,634
07.	Heart Disease and Stroke Prevention	162,249
08.	Performance Improvement and Accountability	213,971
09.	Physical Activity and Nutrition	38,000
10.	HIV/STD Prevention Activities (Transfer from Social Services Block Grant)	145,819
<b>TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT</b>		<b>\$2,380,052</b>
<b>COMMUNITY SERVICES BLOCK GRANT</b>		
Local Program Expenditures		
Office of Economic Opportunity		
01.	Community Action Agencies	\$22,402,724
02.	Limited Purpose Agencies	1,244,596
DHHS Administration		
03.	Office of Economic Opportunity	1,244,596
<b>TOTAL COMMUNITY SERVICES BLOCK GRANT</b>		<b>\$24,891,916</b>

**GENERAL PROVISIONS**

**SECTION 10.50.(b)** Information to Be Included in Block Grant Plans. – The Department of Health and Human Services shall submit a separate plan for each Block Grant received and administered by the Department, and each plan shall include the following:

- 1 (1) A delineation of the proposed allocations by program or activity, including  
2 State and federal match requirements.
- 3 (2) A delineation of the proposed State and local administrative expenditures.
- 4 (3) An identification of all new positions to be established through the Block  
5 Grant, including permanent, temporary, and time-limited positions.
- 6 (4) A comparison of the proposed allocations by program or activity with two  
7 prior years' program and activity budgets and two prior years' actual program  
8 or activity expenditures.
- 9 (5) A projection of current year expenditures by program or activity.
- 10 (6) A projection of federal Block Grant funds available, including unspent  
11 federal funds from the current and prior fiscal years.

12 **SECTION 10.50.(c)** Changes in Federal Fund Availability. – If the Congress of the  
13 United States increases the federal fund availability for any of the Block Grants or contingency  
14 funds and other grants related to existing Block Grants administered by the Department of  
15 Health and Human Services from the amounts appropriated in this section, the Department  
16 shall allocate the increase proportionally across the program and activity appropriations  
17 identified for that Block Grant in this section. In allocating an increase in federal fund  
18 availability, the Office of State Budget and Management shall not approve funding for new  
19 programs or activities not appropriated in this section.

20 If the Congress of the United States decreases the federal fund availability for any of  
21 the Block Grants or contingency funds and other grants related to existing Block Grants  
22 administered by the Department of Health and Human Services from the amounts appropriated  
23 in this section, the Department shall develop a plan to adjust the block grants based on reduced  
24 federal funding.

25 Prior to allocating the change in federal fund availability, the proposed allocation  
26 must be approved by the Office of State Budget and Management. If the Department adjusts the  
27 allocation of any Block Grant due to changes in federal fund availability, then a report shall be  
28 made to the Joint Legislative Commission on Governmental Operations, the House of  
29 Representatives Appropriations Subcommittee on Health and Human Services, the Senate  
30 Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

31 **SECTION 10.50.(d)** Appropriations from federal Block Grant funds are made for  
32 the fiscal year ending June 30, 2014, according to the schedule enacted for State fiscal year  
33 2013-2014 or until a new schedule is enacted by the General Assembly.

34 **SECTION 10.50.(e)** All changes to the budgeted allocations to the Block Grants or  
35 contingency funds and other grants related to existing Block Grants administered by the  
36 Department of Health and Human Services that are not specifically addressed in this section  
37 shall be approved by the Office of State Budget and Management, and the Office of State  
38 Budget and Management shall consult with the Joint Legislative Commission on Governmental  
39 Operations for review prior to implementing the changes. The report shall include an itemized  
40 listing of affected programs, including associated changes in budgeted allocations. All changes  
41 to the budgeted allocations to the Block Grants shall be reported immediately to the House of  
42 Representatives Appropriations Subcommittee on Health and Human Services, the Senate  
43 Appropriations Committee on Health and Human Services, and the Fiscal Research Division.  
44 This subsection does not apply to Block Grant changes caused by legislative salary increases  
45 and benefit adjustments.

#### 46 **TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) FUNDS**

47 **SECTION 10.50.(f)** The sum of eighty-two million four hundred eighty-five  
48 thousand four hundred ninety five dollars (\$82,485,495) appropriated in this section in TANF  
49 funds to the Department of Health and Human Services, Division of Social Services, for the  
50 2013-2014 fiscal year shall be used for Work First County Block Grants. The Division shall  
51

1 certify these funds in the appropriate State-level services based on prior year actual  
2 expenditures. The Division has the authority to realign the authorized budget for these funds  
3 among the State-level services based on current year actual expenditures.

4 **SECTION 10.50.(g)** The sum of two million four hundred eighty-two thousand  
5 two hundred sixty dollars (\$2,482,260) appropriated in this section in TANF funds to the  
6 Department of Health and Human Services, Division of Social Services, for the 2013-2014  
7 fiscal year shall be used to support administration of TANF-funded programs.

8 **SECTION 10.50.(h)** The sum of nine million four hundred twelve thousand three  
9 hundred ninety-one dollars (\$9,412,391) appropriated in this section to the Department of  
10 Health and Human Services, Division of Social Services, in TANF funds for the 2013-2014  
11 fiscal year for child welfare improvements shall be allocated to the county departments of  
12 social services for hiring or contracting staff to investigate and provide services in Child  
13 Protective Services cases; to provide foster care and support services; to recruit, train, license,  
14 and support prospective foster and adoptive families; and to provide interstate and  
15 post-adoption services for eligible families.

16 **SECTION 10.50.(i)** The sum of two million twenty-six thousand eight hundred  
17 seventy-seven dollars (\$2,026,877) appropriated in this section in TANF funds to the  
18 Department of Health and Human Services, Special Children Adoption Fund, for the  
19 2013-2014 fiscal year shall be used in accordance with G.S. 108A-50.2, as enacted in Section  
20 10.48 of S.L. 2009-451. The Division of Social Services, in consultation with the North  
21 Carolina Association of County Directors of Social Services and representatives of licensed  
22 private adoption agencies, shall develop guidelines for the awarding of funds to licensed public  
23 and private adoption agencies upon the adoption of children described in G.S. 108A-50 and in  
24 foster care. Payments received from the Special Children Adoption Fund by participating  
25 agencies shall be used exclusively to enhance the adoption services program. No local match  
26 shall be required as a condition for receipt of these funds.

27 **SECTION 10.50.(j)** The sum of six hundred thirty-two thousand four hundred  
28 sixteen dollars (\$632,416) appropriated in this section to the Department of Health and Human  
29 Services in TANF funds for the 2013-2014 fiscal year shall be used to continue support for the  
30 Child Welfare Collaborative.

## 31 **SOCIAL SERVICES BLOCK GRANT**

32 **SECTION 10.50.(k)** The sum of thirty one million seven hundred ninety-nine  
33 thousand two hundred ten dollars (\$31,799,210) appropriated in this section in the Social  
34 Services Block Grant to the Department of Health and Human Services, Division of Social  
35 Services, for the 2013-2014 fiscal year shall be used for County Block Grants. The Division  
36 shall 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 10.50.(l)** The sum of one million three hundred thousand dollars  
40 (\$1,300,000) appropriated in this section in the Social Services Block Grant to the Department  
41 of Health and Human Services, Division of Social Services, for the 2013-2014 fiscal year shall  
42 be used to support various child welfare training projects as follows:

- 43 (1) Provide a regional training center in southeastern North Carolina.
- 44 (2) Provide training for residential child caring facilities.
- 45 (3) Provide for various other child welfare training initiatives.

46 **SECTION 10.50.(m)** The Department of Health and Human Services is  
47 authorized, subject to the approval of the Office of State Budget and Management, to transfer  
48 Social Services Block Grant funding allocated for departmental administration between  
49 divisions that have received administrative allocations from the Social Services Block Grant.  
50

1           **SECTION 10.50.(n)** Social Services Block Grant funds appropriated for the  
2 Special Children's Adoption Incentive Fund will require a fifty percent (50%) local match.

3           **SECTION 10.50.(o)** The sum of five million forty thousand dollars (\$5,040,000)  
4 appropriated in this section in the Social Services Block Grant for the 2013-2014 fiscal year  
5 shall be allocated to the Department of Health and Human Services, Division of Social  
6 Services. The Division shall allocate these funds to local departments of social services to pay  
7 for Child Protective Services staff at the local level. These funds shall be used to maintain the  
8 number of Child Protective Services workers throughout the State. These Social Services Block  
9 Grant funds shall be used to pay for salaries and related expenses only and are exempt from  
10 10A NCAC 71R .0201(3) requiring a local match of twenty-five percent (25%).

11           **SECTION 10.50.(p)** Social Services Block Grant funds allocated for the  
12 2013-2014 fiscal year for child medical evaluations and the Carousel Center for Abused  
13 Children are exempt from the provisions of 10A NCAC 71R .0201(3).

14           **SECTION 10.50.(q)** The sum of four million three hundred thousand dollars  
15 (\$4,300,000) appropriated in this section in the Social Services Block Grant for the 2012-2013  
16 fiscal year to the Department of Health and Human Services, Divisions of Social Services and  
17 Aging and Adult Services, shall be used for guardianship services pursuant to Chapter 35A of  
18 the General Statutes. The Department may expend funds appropriated in this section to support  
19 (i) existing corporate guardianship contracts during the 2013-2014 fiscal year and (ii)  
20 guardianship contracts transferred to the State from local management entities or managed care  
21 organizations during the 2013-2014 fiscal year.

#### 22 23 **LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT**

24           **SECTION 10.50.(r)** Additional emergency contingency funds received may be  
25 allocated for Energy Assistance Payments or Crisis Intervention Payments without prior  
26 consultation with the Joint Legislative Commission on Governmental Operations. Additional  
27 funds received shall be reported to the Joint Legislative Commission on Governmental  
28 Operations and the Fiscal Research Division upon notification of the award. The Department of  
29 Health and Human Services shall not allocate funds for any activities, including increasing  
30 administration, other than assistance payments, without prior consultation with the Joint  
31 Legislative Commission on Governmental Operations.

32           **SECTION 10.50.(s)** The sum of fifty million seven hundred ninety-nine thousand  
33 two hundred ninety-three dollars (\$50,799,293) appropriated in this section in the Low-Income  
34 Home Energy Assistance Block Grant for the 2013-2014 fiscal year to the Department of  
35 Health and Human Services, Division of Social Services, shall be used for energy assistance  
36 payments for the households of (i) elderly persons age 60 and above with income up to one  
37 hundred thirty percent (130%) of the federal poverty level and (ii) disabled persons eligible for  
38 services funded through the Division of Aging and Adult Services. County departments of  
39 social services shall submit to the Division of Social Services an outreach plan for targeting  
40 households with 60-year-old household members no later than August 1 of each year.

#### 41 42 **CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT**

43           **SECTION 10.50.(t)** Payment for subsidized child care services provided with  
44 federal TANF funds shall comply with all regulations and policies issued by the Division of  
45 Child Development for the subsidized child care program.

46           **SECTION 10.50.(u)** If funds appropriated through the Child Care and  
47 Development Fund Block Grant for any program cannot be obligated or spent in that program  
48 within the obligation or liquidation periods allowed by the federal grants, the Department may  
49 move funds to child care subsidies, unless otherwise prohibited by federal requirements of the  
50 grant, in order to use the federal funds fully.

**MATERNAL AND CHILD HEALTH BLOCK GRANT**

**SECTION 10.50.(v)** If federal funds are received under the Maternal and Child Health Block Grant for abstinence education, pursuant to section 912 of Public Law 104-193 (42 U.S.C. § 710), for the 2013-2014 fiscal year, then those funds shall be transferred to the State Board of Education to be administered by the Department of Public Instruction. The Department of Public Instruction shall use the funds to establish an abstinence until marriage education program and shall delegate to one or more persons the responsibility of implementing the program and G.S. 115C-81(e1)(4) and (4a). The Department of Public Instruction shall carefully and strictly follow federal guidelines in implementing and administering the abstinence education grant funds.

**SECTION 10.50.(w)** The Department of Health and Human Services shall ensure that there will be follow-up testing in the Newborn Screening Program.

**PREVENTIVE HEALTH SERVICES BLOCK GRANT**

**SECTION 10.50.(x)** Of the federal funds received under the Preventive Health Services Block Grant, funds in the amount of three hundred sixty-nine thousand three hundred sixty-four dollars (\$369,364) for the 2013-2014 fiscal year are appropriated as a set aside for Services to Rape Victims.

**PART XI. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES****SUPPORT PRESERVATION OF HOFMANN FOREST TRACT**

**SECTION 11.1** The Department of Agriculture and Consumer Services shall study the feasibility of acquiring the Hofmann Forest tract of approximately 80,000 acres, including utilizing a like-kind exchange of one or more parcels of state forest land or other real property of equal value. In February 2013 the Board of Directors of the NC State University Natural Resources Foundation placed the Hofmann Forest tract up for sale in order to better support a range of internal College of Natural Resource programs. Hofmann Forest is the last large tract of working land adjacent to Camp Lejeune and offers a natural buffer from encroachment to the installation and enhances military training.

**PART XII. DEPARTMENT OF LABOR**

**SECTION 12.1.** Of the Workforce Investment Act funds awarded to the NC Department of Commerce by the U.S. Department of Labor, three hundred fifty thousand dollars (\$350,000) shall be transferred to the North Carolina Department of Labor for the Apprenticeship Program each year in the 2013-2015 biennium.

**PART XIII. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES****SCRAP TIRE DISPOSAL TAX**

**SECTION 13.1.(a)** G.S.105-87.19 reads as rewritten:

**"§ 105-187.19. Use of tax proceeds.**

(a) The Secretary shall distribute the taxes collected under this Article, less the allowance to the Department of Revenue for administrative expenses, in accordance with this section. The Secretary may retain the cost of collection by the Department, not to exceed four hundred twenty-five thousand dollars (\$425,000) a year, as reimbursement to the Department.

(b) Each quarter, the Secretary shall credit ~~eight percent (8%) of the net tax proceeds to the Solid Waste Management Trust Fund, seventeen percent (17%) of the net tax proceeds to the Scrap Tire Disposal Account,~~ two and one-half percent (2.5%) of the net tax proceeds to the Inactive Hazardous Sites Cleanup Fund, and two and one-half percent (2.5%) of the net tax



1 proceeds to the Bernard Allen Memorial Emergency Drinking Water Fund and twenty-five  
2 percent (25%) of the net tax proceeds to the general fund. The Secretary shall distribute the  
3 remaining seventy percent (70%) of the net tax proceeds among the counties on a per capita  
4 basis according to the most recent annual population estimates certified to the Secretary by the  
5 State Budget Officer.

6 (c) A county may use funds distributed to it under this section only as provided in  
7 G.S. 130A-309.54. A county that receives funds under this section and that has an agreement  
8 with another unit of local government under which the other unit of local government provides  
9 for the disposal of solid waste for the county shall transfer the amount received under this  
10 section to the other unit of local government. A unit of local government to which funds are  
11 transferred is subject to the same restrictions on use of the funds as the county."

12 **SECTION 13.1.(b)** Of the funds appropriated by the General Assembly for the  
13 2013-2015 biennium for the Scrap Tire Program, the funds shall be allocated as follows: (i) up  
14 to seventy nine thousand seven hundred seventeen dollars (\$79,717) shall be used for operating  
15 expenses and (ii) one million dollars (\$1,000,000) shall be used for Aid and Public Assistance.  
16

### 17 **WHITE GOODS DISPOSAL TAX**

18 **SECTION 13.2.(a)** G.S. 105-187.24 reads as rewritten:

#### 19 **"§ 105-187.24. Use of tax proceeds.**

20 The Secretary shall distribute the taxes collected under this Article, less the Department of  
21 Revenue's allowance for administrative expenses, in accordance with this section. The  
22 Secretary may retain the Department's cost of collection, not to exceed four hundred  
23 twenty-five thousand dollars (\$425,000) a year, as reimbursement to the Department.

24 Each quarter, the Secretary shall credit ~~eight percent (8%) of the net tax proceeds to the~~  
25 ~~Solid Waste Management Trust Fund and shall credit twenty percent (20%) of the net tax~~  
26 ~~proceeds to the White Goods Management Account. twenty-eight percent (28%) of the net tax~~  
27 proceeds to the general fund. The Secretary shall distribute the remaining seventy-two percent  
28 (72%) of the net tax proceeds among the counties on a per capita basis according to the most  
29 recent annual population estimates certified to the Secretary by the State Budget Officer. The  
30 Department shall not distribute the tax proceeds to a county when notified not to do so by the  
31 Department of Environment and Natural Resources under G.S. 130A-309.87. If a county is not  
32 entitled to a distribution, the proceeds allocated for that county will be credited to the White  
33 Goods Management Account.

34 A county may use funds distributed to it under this section only as provided in  
35 G.S. 130A-309.82. A county that receives funds under this section and that has an interlocal  
36 agreement with another unit of local government under which the other unit provides for the  
37 disposal of solid waste for the county must transfer the amount received under this section to  
38 that other unit. A unit to which funds are transferred is subject to the same restrictions on use of  
39 the funds as the county."

40 **SECTION 13.2.(b)** G.S. 103A-309.83 reads as rewritten:

#### 41 **§ 130A-309.83. White goods management account.**

42 (a) The White Goods Management Account is established within the Department. The  
43 Account consists of revenue previously credited to the Account from the proceeds of the white  
44 goods disposal tax imposed by Article 5C of Chapter 105 of the General Statutes and funds  
45 appropriated by the General Assembly.

46 (b) The Department shall use revenue in the Account to make grants to units of local  
47 government to assist them in managing discarded white goods. To administer the grants, the  
48 Department shall establish procedures for applying for a grant and the criteria for selecting  
49 among grant applicants. The criteria shall include the financial ability of a unit to manage white  
50 goods, the severity of a unit's white goods management problem, and the effort made by a unit  
51 to manage white goods within the resources available to it.

1 (c) A unit of local government is not eligible for a grant unless its costs of managing  
2 white goods for a six-month period preceding the date the unit files an application for a grant  
3 exceeded the amount the unit received during that period from the proceeds of the white goods  
4 disposal tax under G.S. 105-187.24 or funds appropriated to the Account by the General  
5 Assembly. The Department shall determine the six-month period to be used in determining who  
6 is eligible for a grant. A grant to a unit may not exceed the unit's unreimbursed cost for the  
7 six-month period.

8 (d) If a unit of local government anticipates that its costs of managing white goods  
9 during a six-month period will exceed the amount the unit will receive during that period  
10 because the unit will make a capital expenditure for the management of white goods or because  
11 the unit will incur other costs resulting from improvements to that unit's white goods  
12 management program, the unit may request that the Department make an advance  
13 determination that the costs are eligible to be paid by a grant from the White Goods  
14 Management Account and that there will be sufficient funds available in the Account to cover  
15 those costs. If the Department determines that the costs are eligible for reimbursement and that  
16 funds will be available, the Department shall reserve funds for that unit of local government in  
17 the amount necessary to reimburse allowable costs. The Department shall notify the unit of its  
18 determination and fund availability within 60 days of the request from the unit of local  
19 government. This subsection applies only to capital expenditures for the management of white  
20 goods and to costs resulting from improvements to a unit's white goods management program.  
21 ...."  
22

## 23 **SOLID WASTE DISPOSAL TAX**

24 **SECTION 13.3.** G.S. 105-187.63 reads as rewritten:

### 25 **"§ 105-187.63. Use of tax proceeds.**

26 From the taxes received pursuant to this Article, the Secretary may retain the costs of  
27 collection, not to exceed two hundred twenty-five thousand dollars (\$225,000) a year, as  
28 reimbursement to the Department. The Secretary must credit or distribute taxes received  
29 pursuant to this Article, less the cost of collection, on a quarterly basis as follows:

- 30 (1) Fifty percent (50%) to the Inactive Hazardous Sites Cleanup Fund  
31 established by G.S. 130A-310.11.
- 32 (2) Thirty-seven and one-half percent (37.5%) to cities and counties in the State  
33 on a per capita basis, using the most recent annual estimate of population  
34 certified by the State Budget Officer. One-half of this amount must be  
35 distributed to cities, and one-half of this amount must be distributed to  
36 counties. For purposes of this distribution, the population of a county does  
37 not include the population of a city located in the county.

38 A city or county is excluded from the distribution under this subdivision if it does not  
39 provide solid waste management programs and services and is not responsible by contract for  
40 payment for these programs and services. The Department of Environment and Natural  
41 Resources must provide the Secretary with a list of the cities and counties that are excluded  
42 under this subdivision. The list must be provided by May 15 of each year and applies to  
43 distributions made in the fiscal year that begins on July 1 of that year.

44 Funds distributed under this subdivision must be used by a city or county solely for solid  
45 waste management programs and services.

- 46 (3) ~~Twelve and one-half percent (12.5%) to the Solid Waste Management Trust~~  
47 ~~Fund established by G.S. 130A-309.12.~~ Twelve and one-half percent  
48 (12.5%) to the General Fund.  
49

## 50 **SOLID WASTE MANAGEMENT TRUST FUND**

51 **SECTION 13.4.** G.S. 130A-309.12 reads as rewritten:

1 **"§ 130A-309.12. Solid Waste Management Trust Fund.**

2 (a) The Solid Waste Management Trust Fund is created and is to be administered by the  
3 Department for the purposes of:

- 4 (1) Funding activities of the Department to promote waste reduction and  
5 recycling including but not limited to public education programs and  
6 technical assistance to units of local government;  
7 (2) Funding research on the solid waste stream in North Carolina;  
8 (3) Funding activities related to the development of secondary materials  
9 markets;  
10 (4) Providing funding for demonstration projects as provided by this Part; and  
11 (5) Providing funding for research by The University of North Carolina and  
12 independent nonprofit colleges and universities within the State which are  
13 accredited by the Southern Association of Colleges and Schools as provided  
14 by this Part.  
15 (6) Providing funding for the activities of the Division of Environmental  
16 Assistance and Outreach.

17 (b) The Solid Waste Management Trust Fund shall consist of the following:

- 18 (1) Funds appropriated by the General ~~Assembly~~ Assembly to be used as  
19 follows:  
20 a. Up to one million four hundred sixty-two thousand dollars  
21 (\$1,462,000) to be used for operating expenses.  
22 b. Up to one million dollars (\$1,000,000) to be used for aid and public  
23 assistance.  
24 (2) Contributions and grants from public or private sources.  
25 ~~(3) Eight percent (8%) of the proceeds of the scrap tire disposal tax imposed~~  
26 ~~under Article 5B of Chapter 105 of the General Statutes.~~  
27 ~~(4) Eight percent (8%) of the proceeds of the white goods disposal tax imposed~~  
28 ~~under Article 5C of Chapter 105 of the General Statutes.~~  
29 ~~(5) Twelve and one half percent (12.5%) of the proceeds of the solid waste~~  
30 ~~disposal tax imposed under Article 5G of Chapter 105 of the General~~  
31 ~~Statutes.~~

32 (c) The Department shall include in the report required by G.S. 130A-309.06(c) a  
33 description of the condition of the Solid Waste Management Trust Fund and the use of all funds  
34 allocated from the Solid Waste Management Trust Fund.

35 ...."

36  
37 **TRANSFER THE CLEAN WATER MANAGEMENT TRUST FUND INTO THE**  
38 **DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AS A TYPE**  
39 **II TRANSFER SO THAT MANAGEMENT FUNCTIONS OF THE CLEAN WATER**  
40 **MANAGEMENT TRUST FUND CAN BE COMBINED WITH MANAGEMENT**  
41 **FUNCTIONS OF THE PARKS AND RECREATION TRUST FUND, NATURAL**  
42 **HERITAGE TRUST FUND OR OTHER DEPARTMENTAL FUNDS TO**  
43 **PROMOTE EFFICIENCY AND COST SAVINGS.**

44 **SECTION 13.5.(a)** The Clean Water Management Trust Fund is transferred into  
45 the Department of Environment and Natural Resources as a Type II transfer, as defined in  
46 G.S. 143A-6.

47 **SECTION 13.5.(b)** G.S. 113A-255 reads as rewritten:

48 **"§ 113A-255. Clean Water Management Trust Fund: Board of Trustees established;**  
49 **membership qualifications; vacancies; meetings and meeting facilities.**

50 (a) Board of Trustees Established. – There is established the Clean Water Management  
51 Trust Fund Board of Trustees. The Clean Water Management Trust Fund Board of Trustees

1 shall be administratively located within the Department of Environment and Natural Resources  
2 but shall be independent of the Department.

3 (b) Membership. – The Clean Water Management Trust Fund Board of Trustees shall  
4 be composed of 21 members appointed to four-year terms as follows:

- 5 (1) One member appointed by the Governor to a term that expires on 1 July of  
6 years that precede by one year those years that are evenly divisible by four.
- 7 (2) One member appointed by the Governor to a term that expires on 1 July of  
8 years that precede by one year those years that are evenly divisible by four.
- 9 (3) One member appointed by the Governor to a term that expires on 1 July of  
10 years that are evenly divisible by four.
- 11 (4) One member appointed by the Governor to a term that expires on 1 July of  
12 years that are evenly divisible by four.
- 13 (5) One member appointed by the Governor to a term that expires on 1 July of  
14 years that follow by one year those years that are evenly divisible by four.
- 15 (6) One member appointed by the Governor to a term that expires on 1 July of  
16 years that follow by two years those years that are evenly divisible by four.
- 17 (7) One member appointed by the Governor to a term that expires on 1 July of  
18 years that follow by two years those years that are evenly divisible by four.
- 19 (8) One member appointed by the General Assembly upon the recommendation  
20 of the President Pro Tempore of the Senate to a term that expires on 1 July  
21 of years that precede by one year those years that are evenly divisible by  
22 four.
- 23 (9) One member appointed by the General Assembly upon the recommendation  
24 of the President Pro Tempore of the Senate to a term that expires on 1 July  
25 of years that precede by one year those years that are evenly divisible by  
26 four.
- 27 (10) One member appointed by the General Assembly upon the recommendation  
28 of the President Pro Tempore of the Senate to a term that expires on 1 July  
29 of years that are evenly divisible by four.
- 30 (11) One member appointed by the General Assembly upon the recommendation  
31 of the President Pro Tempore of the Senate to a term that expires on 1 July  
32 of years that follow by one year those years that are evenly divisible by four.
- 33 (12) One member appointed by the General Assembly upon the recommendation  
34 of the President Pro Tempore of the Senate to a term that expires on 1 July  
35 of years that follow by one year those years that are evenly divisible by four.
- 36 (13) One member appointed by the General Assembly upon the recommendation  
37 of the President Pro Tempore of the Senate to a term that expires on 1 July  
38 of years that follow by two years those years that are evenly divisible by  
39 four.
- 40 (14) One member appointed by the General Assembly upon the recommendation  
41 of the President Pro Tempore of the Senate to a term that expires on 1 July  
42 of years that follow by two years those years that are evenly divisible by  
43 four.
- 44 (15) One member appointed by the General Assembly upon the recommendation  
45 of the Speaker of the House of Representatives to a term that expires on 1  
46 July of years that precede by one year those years that are evenly divisible  
47 by four.
- 48 (16) One member appointed by the General Assembly upon the recommendation  
49 of the Speaker of the House of Representatives to a term that expires on 1  
50 July of years that are evenly divisible by four.

- 1 (17) One member appointed by the General Assembly upon the recommendation  
2 of the Speaker of the House of Representatives to a term that expires on 1  
3 July of years that are evenly divisible by four.
- 4 (18) One member appointed by the General Assembly upon the recommendation  
5 of the Speaker of the House of Representatives to a term that expires on 1  
6 July of years that follow by one year those years that are evenly divisible by  
7 four.
- 8 (19) One member appointed by the General Assembly upon the recommendation  
9 of the Speaker of the House of Representatives to a term that expires on 1  
10 July of years that follow by one year those years that are evenly divisible by  
11 four.
- 12 (20) One member appointed by the General Assembly upon the recommendation  
13 of the Speaker of the House of Representatives to a term that expires on 1  
14 July of years that follow by two years those years that are evenly divisible by  
15 four.
- 16 (21) One member appointed by the General Assembly upon the recommendation  
17 of the Speaker of the House of Representatives to a term that expires on 1  
18 July of years that follow by two years those years that are evenly divisible by  
19 four.
- 20 (b1) Qualifications. – The office of Trustee is declared to be an office that may be held  
21 concurrently with any other executive or appointive office, under the authority of Article VI,  
22 Section 9, of the North Carolina Constitution. Persons appointed shall be knowledgeable in at  
23 least one of the following areas:
- 24 (1) Acquisition and management of natural areas.  
25 (2) Conservation and restoration of water quality.  
26 (3) Wildlife and fisheries habitats and resources.  
27 (4) Environmental management.
- 28 (b2) Limitation on Length of Service. – No member of the Board of Trustees shall serve  
29 more than two consecutive four-year terms or a total of 10 years.
- 30 (c) Chair. – The Governor shall appoint one member to serve as Chair of the Board of  
31 Trustees.
- 32 (d) Vacancies. – An appointment to fill a vacancy on the Board of Trustees created by  
33 the resignation, removal, disability, or death of a member shall be for the balance of the  
34 unexpired term. Vacancies in appointments made by the General Assembly shall be filled as  
35 provided in G.S. 120-122.
- 36 (e) Frequency of Meetings. – The Board of Trustees shall meet at least twice each year  
37 and may hold special meetings at the call of the Chair or a majority of the members.
- 38 (e1) Quorum. – A majority of the membership of the Board of Trustees constitutes a  
39 quorum for the transaction of business.
- 40 (f) Per Diem and Expenses. – Each member of the Board of Trustees shall receive per  
41 diem and necessary travel and subsistence expenses in accordance with the provisions of  
42 G.S. 138-5. Per diem, subsistence, and travel expenses of the Trustees shall be paid from the  
43 Fund.
- 44 (g) Staff Support and Meeting Facilities. – The Secretary of Environment and Natural  
45 Resources shall provide staff support and meeting facilities for the Board of Trustees ~~and its~~  
46 ~~staff as requested by the Chair."~~

47 **SECTION 13.5.(c)** G.S. 113A-258 is repealed.

48 **SECTION 13.5.(d)** All staff employed by the Clean Water Management Trust  
49 Fund shall be transferred into the Department of Environment and Natural Resources effective  
50 July 1, 2013.

51

**DRINKING WATER STATE REVOLVING FUND**

**SECTION 13.6.** Notwithstanding G.S. 159G-22, the Department of Environment and Natural Resources may transfer State funds from the Drinking Water Reserve to the Drinking Water State Revolving Fund for the 2013-2014 fiscal year. The funds shall be used to match maximum available federal grant moneys authorized by section 1453 of the federal Safe Drinking Water Act of 1996, 42 U.S.C. § 300j-12, as amended.

**PARKS AND RECREATION TRUST FUND; ALLOCATION OF DEED STAMP TAX PROCEEDS CREDITED TO FUND**

**SECTION 13.7.** G.S. 105-228.30 reads as rewritten:

**"§ 105-228.30. Imposition of excise tax; distribution of proceeds.**

(a) An excise tax is levied on each instrument by which any interest in real property is conveyed to another person. The tax rate is one dollar (\$1.00) on each five hundred dollars (\$500.00) or fractional part thereof of the consideration or value of the interest conveyed. The transferor must pay the tax to the register of deeds of the county in which the real estate is located before recording the instrument of conveyance. If the instrument transfers a parcel of real estate lying in two or more counties, however, the tax must be paid to the register of deeds of the county in which the greater part of the real estate with respect to value lies.

The excise tax on instruments imposed by this Article applies to timber deeds and contracts for the sale of standing timber to the same extent as if these deeds and contracts conveyed an interest in real property.

(b) The register of deeds of each county must remit the proceeds of the tax levied by this section to the county finance officer. The finance officer of each county must credit one-half of the proceeds to the county's general fund and remit the remaining one-half of the proceeds, less taxes refunded and the county's allowance for administrative expenses, to the Department of Revenue on a monthly basis. A county may retain two percent (2%) of the amount of tax proceeds allocated for remittance to the Department of Revenue as compensation for the county's cost in collecting and remitting the State's share of the tax. Of the funds remitted to it pursuant to this section, the Department of Revenue must credit ~~seventy five percent (75%) to the Parks and Recreation Trust Fund established under G.S. 113-44.15 and twenty five percent (25%) to the Natural Heritage Trust Fund established under G.S. 113-77.7.~~ one hundred percent (100%) to the General Fund."

**PARKS AND RECREATION TRUST FUND**

**SECTION 13.8.** G.S. 113-44.15 reads as rewritten:

**"§ 113-44.15. Parks and recreation trust fund.**

(a) Fund Created. – There is established a Parks and Recreation Trust Fund in the State Treasurer's Office. The Trust Fund shall be a nonreverting special revenue fund consisting of gifts and grants to the Trust Fund, ~~monies credited to the Trust Fund pursuant to G.S. 105-228.30(b),~~ and other monies appropriated to the Trust Fund by the General Assembly. Investment earnings credited to the assets of the Fund shall become part of the Fund.

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

- (1) ~~Sixty five percent (65%) for the State Parks System for capital projects, repairs and renovations of park facilities, and land acquisition, and to retire debt incurred for these purposes under Article 9 of Chapter 142 of the General Statutes.~~ Six million dollars (\$6,000,000) for each year in the 2013-2015 biennium shall be used for the operating expenses of the Division of Parks and Recreation of the Department of Environment and Natural Resources.

1           (2) Debt. – The Authority shall allocate seven million one hundred seventy  
2 thousand one hundred seventy-eight dollars (\$7,170,178) in fiscal year  
3 2013-2014 and seven million one hundred forty-eight thousand six hundred  
4 forty-two dollars (\$7,148,642) in fiscal year 2014-2015 to be used to retire  
5 debt incurred for the purposes under Article 9 of Chapter 142 of the General  
6 Statutes.

7           (3) The remaining funds appropriated to the Parks and Recreation Trust Fund  
8 shall be allocated as follows

9           a. Sixty-five percent (65%) for the State Parks System for capital  
10 projects, repairs and renovations of park facilities, and land  
11 acquisition.

12           b. ~~Thirty percent (30%)~~ Thirty-five percent (35%) to provide matching  
13 funds to local governmental units or public authorities as defined in  
14 G.S. 159-7 on a dollar-for-dollar basis for local park and recreation  
15 purposes and for the Coastal and Estuarine Water Beach Access  
16 Program. The appraised value of land that is donated to a local  
17 government unit or public authority may be applied to the matching  
18 requirement of this subdivision. These funds shall be allocated by the  
19 North Carolina Parks and Recreation Authority based on criteria  
20 patterned after the Open Project Selection Process established for the  
21 Land and Water Conservation Fund administered by the National  
22 Park Service of the United States Department of the Interior.

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

25           (b1) Geographic Distribution. – In allocating funds in the Trust Fund under this section,  
26 the North Carolina Parks and Recreation Authority shall make geographic distribution across  
27 the State to the extent practicable.

28           (b2) Administrative Expenses. – Of the funds appropriated to the North Carolina Parks  
29 and Recreation Authority from the Trust Fund each year, no more than three percent (3%) may  
30 be used by the Department for operating expenses associated with managing capital  
31 improvements projects, acquiring land, and administration of local grants programs.

32           (b3) Operating Expenses for State Parks System Allocations. – In allocating funds in the  
33 Trust Fund under subdivision (1) of subsection (b) of this section, the North Carolina Parks and  
34 Recreation Authority shall consider the operating expenses associated with each capital project,  
35 repair and renovation project, and each land acquisition. In considering the operating expenses,  
36 the North Carolina Parks and Recreation Authority shall determine both:

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

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

42           (c) Reports. – The North Carolina Parks and Recreation Authority shall report no later  
43 than October 1 of each year to the Joint Legislative Commission on Governmental Operations,  
44 the House and Senate Appropriations Subcommittees on Natural and Economic Resources, the  
45 Fiscal Research Division, and the Environmental Review Commission on allocations from the  
46 Trust Fund from the prior fiscal year. For funds allocated from the Trust Fund under  
47 subdivision (b1) [subsection (b1)] of this section, this report shall include the operating  
48 expenses determined under subdivisions (1) and (2) of subsection (b3) of this section.

49           ~~(d) Debt.—The Authority may allocate up to fifty percent (50%) of the portion of the~~  
50 ~~annual appropriation identified in subdivision (b)(1) of this section to reimburse the General~~  
51 ~~Fund for debt service on special indebtedness to be issued or incurred under Article 9 of~~

1 ~~Chapter 142 of the General Statutes for the purposes provided in subdivision (b)(1) of this~~  
2 ~~section and for waterfront access. In order to allocate funds for debt service reimbursement, the~~  
3 ~~Authority must identify to the State Treasurer the specific parks projects for which it would like~~  
4 ~~special indebtedness to be issued or incurred and the annual amount it intends to make~~  
5 ~~available, and request the State Treasurer to issue or incur the indebtedness. After special~~  
6 ~~indebtedness has been issued or incurred for a parks project requested by the Authority, the~~  
7 ~~Authority must credit to the General Fund each year the actual aggregate principal and interest~~  
8 ~~payments to be made in that year on the special indebtedness, as identified by the State~~  
9 ~~Treasurer."~~

10  
11 **ACQUISITION OF LAND WITH FUNDS FROM THE NATURAL HERITAGE TRUST**  
12 **FUND.**

13 **SECTION 13.9.** G.S. 113-77.9 reads as rewritten:

14 **"§ 113-77.9. Acquisition of land with funds from the natural heritage trust fund.**

15 (a) Proposals. – From time to time, but at least once each year, the Secretary, the  
16 Chairman of the North Carolina Wildlife Resources Commission, the Commissioner of  
17 Agriculture, and the Secretary of Cultural Resources may propose to the Trustees lands to be  
18 acquired with funds from the Fund. For each tract or interest proposed, the Secretary, the  
19 Chairman of the North Carolina Wildlife Resources Commission, the Commissioner of  
20 Agriculture, and the Secretary of Cultural Resources shall provide the Trustees with the  
21 following information:

- 22 (1) The value of the land for recreation, forestry, fish and wildlife habitat, and  
23 wilderness purposes, and its consistency with the plan developed pursuant to  
24 the State Parks Act, the State's comprehensive plan for outdoor recreation,  
25 parks, natural areas development, and wildlife management goals and  
26 objectives.
- 27 (2) Any rare or endangered species on or near the land.
- 28 (3) Whether the land contains a relatively undisturbed and outstanding example  
29 of a native North Carolina ecological community that is now uncommon.
- 30 (4) Whether the land contains a major river or tributary, watershed, wetland,  
31 significant littoral, estuarine, or aquatic site, or important geologic feature.
- 32 (5) The extent to which the land represents a type of landscape, natural feature,  
33 or natural area that is not currently in the State's inventory of parks and  
34 natural areas.
- 35 (6) Other sources of funds that may be available to assist in acquiring the land.
- 36 (7) The State department or division that will be responsible for managing the  
37 land.
- 38 (8) What assurances exist that the land will not be used for purposes other than  
39 those for which it is being acquired.
- 40 (9) Whether the site or structure is of such historical significance as to be  
41 essential to the development of a balanced State program of historic  
42 properties.

43 (b) Land Acquisition and Debt Service. – The Trustees may authorize expenditures  
44 from the Fund for the following purposes:

- 45 (1) To acquire land that represents the ecological diversity of North Carolina,  
46 including natural features such as riverine, montane, coastal, and geologic  
47 systems and other natural areas to ensure their preservation and conservation  
48 for recreational, scientific, educational, cultural, and aesthetic purposes, and  
49 to retire debt incurred for this purpose under Article 9 of Chapter 142 of the  
50 General Statutes.



1 (2) To acquire land as additions to the system of parks, State trails, aesthetic  
2 forests, fish and wildlife management areas, wild and scenic rivers, and  
3 natural areas for the beneficial use and enjoyment of the public, and to retire  
4 debt incurred for this purpose under Article 9 of Chapter 142 of the General  
5 Statutes.

6 (3) Subject to the limitations of subsection (b2) of this section, to acquire land  
7 that contributes to the development of a balanced State program of historic  
8 properties.

9 (b1) Priorities. – In authorizing expenditures from the Fund to acquire land pursuant to  
10 this Article, the first priority shall be the protection of land with outstanding natural or cultural  
11 heritage values. Land with outstanding natural heritage values is land that is identified by the  
12 North Carolina Natural Heritage Program as having State or national significance. Land with  
13 outstanding cultural heritage values is land that is identified, inventoried, or evaluated by the  
14 Department of Cultural Resources. The Trustees shall be guided by any priorities established  
15 by the Secretary, the Chairman of the Wildlife Resources Commission, the Commissioner of  
16 Agriculture, and the Secretary of Cultural Resources in their proposals made pursuant to  
17 subsection (a) of this section.

18 (b2) Historic Properties. – The Trustees may authorize expenditure of up to twenty-five  
19 percent (25%) of the funds credited to the Fund ~~pursuant to G.S. 105-228.30 during the~~  
20 ~~preceding fiscal year~~ to acquire land under subdivision (3) of subsection (b) of this section. No  
21 other funds in the Fund may be used for expenditures to acquire land under subdivision (3) of  
22 subsection (b) of this section.

23 (b3) Debt. – Of the funds credited annually to the Fund ~~pursuant to G.S. 105-228.30~~, the  
24 Trustees may authorize expenditure of up to sixty percent (60%) to reimburse the General Fund  
25 for debt service on special indebtedness to be issued or incurred under Article 9 of Chapter 142  
26 of the General Statutes for the purposes provided in subdivisions (b)(1) and (2) of this section.  
27 In order to authorize expenditure of funds for debt service reimbursement, the Trustees must  
28 identify to the State Treasurer and the Department of Administration the specific natural  
29 heritage projects for which they would like special indebtedness to be issued or incurred and  
30 the annual amount they intend to make available, and request the State Treasurer to issue or  
31 incur the indebtedness. After special indebtedness has been issued or incurred for a natural  
32 heritage project requested by the Trustees, the Trustees must direct the State Treasurer to credit  
33 to the General Fund each year the actual aggregate principal and interest payments to be made  
34 in that year on the special indebtedness, as identified by the State Treasurer.

35 (c) Other Purposes. – The Trustees may authorize expenditures from the Fund to pay  
36 for the inventory of natural areas conducted under the Natural Heritage Program established  
37 pursuant to the Nature Preserves Act, Article 9A of Chapter 113A of the General Statutes. The  
38 Trustees may also authorize expenditures from the Fund to pay for conservation and protection  
39 planning and for informational programs for owners of natural areas, as defined in  
40 G.S. 113A-164.3. The Trustees shall authorize expenditures from the Fund not to exceed  
41 seventy-five thousand dollars (\$75,000) to pay the cost of the Department of Agriculture and  
42 Consumer Services to administer the Plant Conservation Program. The Trustees shall authorize  
43 expenditures from the Fund not to exceed three hundred twenty-five thousand dollars  
44 (\$325,000) to pay the cost of supporting staff in the Office of Conservation Planning and  
45 Community Affairs of the Department of Environment and Natural Resources for activities in  
46 addition to those conducted in support of the purposes set forth in this section.

47 (d) Acquisition. – The Department of Administration may, pursuant to G.S. 143-341,  
48 acquire by purchase, gift, or devise all lands selected by the Trustees for acquisition pursuant to  
49 this Article. Title to any land acquired pursuant to this Article shall be vested in the State. A  
50 State agency with management responsibility for land acquired pursuant to this Article may  
51 enter into a management agreement or lease with a county, city, town, or private nonprofit

1 organization qualified under G.S. 105-151.12 and G.S. 105-130.34 and certified under section  
2 501(c)(3) of the Internal Revenue Code to aid in managing the land. A management agreement  
3 or lease shall be executed by the Department of Administration pursuant to G.S. 143-341.

4 (d1) Local Reimbursement. – In any county in which real property was purchased  
5 pursuant to subsection (d) of this section as additions to the fish and wildlife management areas  
6 and where less than twenty-five percent (25%) of the land area is privately owned at the time of  
7 purchase, that county and any other local taxing unit shall be annually reimbursed, for a period  
8 of 20 years, from funds available to the North Carolina Wildlife Resources Commission in an  
9 amount equal to the amount of ad valorem taxes that would have been paid to the taxing unit if  
10 the property had remained subject to taxation.

11 (e) Reports. – The Secretary shall maintain and annually revise a list of grants made  
12 pursuant to this Article. The list shall include the acreage of each tract, the county in which the  
13 tract is located, the amount awarded from the Fund to acquire the tract, and the State  
14 department or division responsible for managing the tract. The Secretary shall furnish a copy of  
15 the list to each Trustee, the Joint Legislative Commission on Governmental Operations, the  
16 House and Senate Appropriations Subcommittees on Natural and Economic Resources, the  
17 Fiscal Research Division, and the Environmental Review Commission no later than October 1  
18 of each year.

19 (f) Hunting and Fishing. – No provision of this Article shall be construed to eliminate  
20 hunting and fishing, as regulated by the laws of the State of North Carolina, upon properties  
21 purchased pursuant to this Article."

22 **SECTION 13.10.** Article 14A of Chapter 113 of the General Statutes reads as  
23 rewritten:

24 "**§ 113-68. Definitions.**

25 As used in this Article:

- 26 (1) "Commercial fishing operation" means any activity preparatory to, during, or  
27 subsequent to the taking of any fish, the taking of which is subject to  
28 regulation by the Commission, either with the use of commercial fishing  
29 equipment or gear, or by any means if the purpose of the taking is to obtain  
30 fish for sale. Commercial fishing operation does not include ~~(i)~~ the taking of  
31 fish as part of a recreational fishing tournament, unless commercial fishing  
32 equipment or gear is used, ~~(ii)~~ the taking of fish under a RCGL, or ~~(iii)~~ the  
33 taking of fish as provided in G.S. 113 -261.
- 34 (2) "Commission" means the Marine Fisheries Commission.
- 35 (3) "Division" means the Division of Marine Fisheries in the Department of  
36 Environment and Natural Resources.
- 37 (3a) "Immediate family" means the mother, father, brothers, sisters, spouse,  
38 children, stepparents, stepbrothers, stepsisters, and stepchildren of a person.
- 39 (4) "License year" means the period beginning 1 July of a year and ending on 30  
40 June of the following year.
- 41 (5) "North Carolina resident" means a person who is a resident within the  
42 meaning of G.S. 113-130(4).
- 43 (6) "RCGL" means Recreational Commercial Gear License.
- 44 (7) "RSCFL" means Retired Standard Commercial Fishing License.
- 45 (8) "SCFL" means Standard Commercial Fishing License.

46 "**§ 113-168.1. General provisions governing licenses and endorsements.**

47 (a) Duration, Fees. – Except as provided in G.S. 113-173(f), all licenses and  
48 endorsements issued under this Article expire on the last day of the license year. An applicant  
49 for any license or endorsement shall pay the full annual fee at the time the applicant applies for  
50 the license or endorsement regardless of when application is made.

1 (b) Licenses Required to Engage in Commercial Fishing. – It is unlawful for any person  
2 to engage in a commercial fishing operation without holding a license and any endorsements  
3 required by this Article. It is unlawful for anyone to command a vessel engaged in a  
4 commercial fishing operation without complying with the provisions of this Article and rules  
5 adopted by the Commission under this Article.

6 (c) Licenses, Assignments, and Endorsements Available for Inspection. – It is unlawful  
7 for any person to engage in a commercial fishing operation in the State without having ready at  
8 hand for inspection all valid licenses, assignments, and endorsements required under this  
9 Article. To comply with this subsection, a person must have any required endorsements and  
10 either a currently valid (i) license issued in the person's true name and bearing the person's  
11 current address or (ii) SCFL and an assignment of the SCFL authorized under this Article. It is  
12 unlawful for a person to refuse to exhibit any license, assignment, or endorsement required by  
13 this Article upon the request of an inspector or other law enforcement officer authorized to  
14 enforce federal or State laws, regulations, or rules relating to marine fisheries.

15 (d) No Dual Residency. – It is unlawful for any person to hold any currently valid  
16 license issued under this Article to the person as a North Carolina resident if that person holds  
17 any currently valid commercial or recreational fishing license issued by another state to the  
18 person as a resident of that state.

19 (e) License Format. – Licenses issued under this Article shall be issued in the name of  
20 the applicant. Each license shall show the type of license and any endorsements; the name,  
21 mailing address, physical or residence address, and date of birth of the licensee; the date on  
22 which the license is issued; the date on which the license expires; and any other information  
23 that the Commission or the Division determines to be necessary to accomplish the purposes of  
24 this Subchapter.

25 (f) License Issuance and Renewal. – Except as provided in G.S. 113-173(d), the  
26 Division shall issue licenses and endorsements under this Article to eligible applicants at any  
27 office of the Division or by mail from the Morehead City office of the Division. A license or  
28 endorsement may be renewed in person at any office of the Division or by mail to the  
29 Morehead City office of the Division. Eligibility to renew an expired SCFL shall end one year  
30 after the date of expiration of the SCFL.

31 (g) Limitations on Eligibility. – A person is not eligible to obtain or renew a license or  
32 endorsement under this Article if, at the time the person applies for the license or endorsement,  
33 any other license or endorsement issued to the person under this Article is suspended or  
34 revoked. A person is not eligible to obtain a license or endorsement under this Article if, within  
35 the three years prior to the date of application, the person has been determined to be responsible  
36 for four or more violations of state laws, regulations, or rules governing the management of  
37 marine and estuarine resources. An applicant shall certify that the applicant has not been  
38 determined to be responsible for four or more violations of state laws, regulations, or rules  
39 governing the management of marine and estuarine resources during the previous three years.  
40 The Division may also consider violations of federal law and regulations governing the  
41 management of marine and estuarine resources in determining whether an applicant is eligible  
42 for a license.

43 (h) Replacement Licenses and Endorsements. – The Division shall issue a replacement  
44 license, including any endorsements, to a licensee for a license that has not been suspended or  
45 revoked. A licensee may apply for a replacement license for a license that has been lost, stolen,  
46 or destroyed and shall apply for a replacement license within 30 days of a change in the  
47 licensee's name or address. A licensee may apply for a replacement license in person at any  
48 office of the Division or by mail to the Morehead City office of the Division. A licensee may  
49 use a copy of the application for a replacement license that has been filed with the Division as a  
50 temporary license until the licensee receives the replacement license. The Commission may  
51 establish a fee for each type of replacement license, not to exceed ~~ten~~ fifteen dollars (~~\$10.00~~),

1 (~~\$15.00~~), that compensates the Division for the administrative costs associated with issuing the  
2 replacement license.

3 (i) Cancellation. – The Division may cancel a license or endorsement issued on the  
4 basis of an application that contains false information supplied by the applicant. A cancelled  
5 license or endorsement is void from the date of issuance. A person in possession of a cancelled  
6 license or endorsement shall surrender the cancelled license or endorsement to the Division. It  
7 is unlawful to refuse to surrender a cancelled license or endorsement upon demand of any  
8 authorized agent of the Division.

9 (j) Advance Sale of Licenses, License Revenue. – To ensure an orderly transition from  
10 one license year to the next, the Division may issue a license or endorsement prior to 1 July of  
11 the license year for which the license or endorsement is valid. Revenue that the Division  
12 receives for the issuance of a license or endorsement prior to the beginning of a license year  
13 shall not revert at the end of the fiscal year in which the revenue is received and shall be  
14 credited and available to the Division for the license year in which the license or endorsement  
15 is valid.

16 **"§ 113-168.2. Standard Commercial Fishing License.**

17 (a) Requirement. – Except as otherwise provided in this Article, it is unlawful for any  
18 person to engage in a commercial fishing operation in the coastal fishing waters without  
19 holding a SCFL issued by the Division. A person who works as a member of the crew of a  
20 vessel engaged in a commercial fishing operation under the direction of a person who holds a  
21 valid SCFL is not required to hold a SCFL. A person who holds a SCFL is not authorized to  
22 take shellfish unless the SCFL is endorsed as provided in G.S. 113-168.5(d) ~~or the person holds~~  
23 ~~a shellfish license issued pursuant to G.S. 113-169.2.~~

24 (a1) Use of Vessels. – The holder of a SCFL is authorized to use only one vessel in a  
25 commercial fishing operation at any given time. The Commission may adopt a rule to exempt  
26 from this requirement a person in command of a vessel that is auxiliary to a vessel engaged in a  
27 pound net operation, long-haul operation, beach seine operation, or menhaden operation. A  
28 person who works as a member of the crew of a vessel engaged in a mechanical shellfish  
29 operation under the direction of a person who holds a valid SCFL with a shellfish endorsement  
30 is not required to hold a shellfish license.

31 (b) through (d) Repealed by Session Laws 1998-225, s. 4.11.

32 (e) Fees. – The annual SCFL fee for a resident of this State shall be ~~two~~three hundred  
33 dollars (~~\$200.00~~)(~~\$300.00~~). The annual SCFL fee for a person who is not a resident of this  
34 State shall be ~~eight hundred dollars (\$800.00)~~ or the amount charged to a resident of this state in  
35 the nonresident's state, whichever is less. In no event, however, may the fee be less than ~~one~~  
36 three hundred dollars (\$100)(~~\$300~~). For purposes of this section, a "resident of this state" is a  
37 person who is a resident within the meaning of:

38 (1) Sub-subdivisions a. through d. of G.S. 113-130(4) and who filed a State  
39 income tax return as a resident of North Carolina for the previous calendar  
40 or tax year, or

41 (2) G.S. 113-130(4)e.

42 (f) Assignment. – The holder of a SCFL may assign the SCFL to any individual who is  
43 eligible to hold a SCFL under this Article. The assignment shall be in writing on a form  
44 provided by the Division and shall include the name of the licensee, the license number, any  
45 endorsements, the assignee's name, mailing address, physical or residence address, and the  
46 duration of the assignment. If a notarized copy of an assignment is not filed with the Morehead  
47 City office of the Division within five days of the date of the assignment, the assignment shall  
48 expire. It is unlawful for the assignee of a SCFL to assign the SCFL. It is unlawful to assign a  
49 shellfish endorsement of a SCFL to a non-North Carolina resident. The assignment shall  
50 terminate:

- 1 (1) Upon written notification by the assignor to the assignee and the Division  
2 that the assignment has been terminated.
- 3 (2) Upon written notification by the estate of the assignor to the assignee and the  
4 Division that the assignment has been terminated.
- 5 (3) If the Division determines that the assignee is operating in violation of the  
6 terms and conditions applicable to the assignment.
- 7 (4) If the assignee becomes ineligible to hold a license under this Article.
- 8 (5) Upon the death of the assignee.
- 9 (6) If the Division suspends or revokes the assigned SCFL.
- 10 (7) At the end of the license year.
- 11 (g) Transfer. – A SCFL may be transferred only by the Division. A SCFL may be  
12 transferred pursuant to rules adopted by the Commission or upon the request of:
- 13 (1) A licensee, from the licensee to a member of the licensee's immediate family  
14 who is eligible to hold a SCFL under this Article.
- 15 (2) The administrator or executor of the estate of a deceased licensee, to the  
16 administrator or executor of the estate if a surviving member of the deceased  
17 licensee's immediate family is eligible to hold a SCFL under this Article.  
18 The administrator or executor must request a transfer under this subdivision  
19 within six months after the administrator or executor qualifies under Chapter  
20 28A of the General Statutes. An administrator or executor who holds a  
21 SCFL under this subdivision may, for the benefit of the estate of the  
22 deceased licensee:
- 23 a. Engage in a commercial fishing operation under the SCFL if the  
24 administrator or executor is eligible to hold a SCFL under this  
25 Article.
- 26 b. Assign the SCFL as provided in subsection (f) of this section.
- 27 c. Renew the SCFL as provided in G.S. 113-168.1.
- 28 (3) An administrator or executor to whom a SCFL was transferred pursuant to  
29 subdivision (2) of this subsection, to a surviving member of the deceased  
30 licensee's immediate family who is eligible to hold a SCFL under this  
31 Article.
- 32 (4) The surviving member of the deceased licensee's immediate family to whom  
33 a SCFL was transferred pursuant to subdivision (3) of this subsection, to a  
34 third-party purchaser of the deceased licensee's fishing vessel.
- 35 (5) A licensee who is retiring from commercial fishing, to a third-party  
36 purchaser of the licensee's fishing vessel.
- 37 (h) Identification as Commercial Fisherman. – The receipt of a current and valid SCFL  
38 or shellfish license issued by the Division shall serve as proper identification of the licensee as  
39 a commercial fisherman.
- 40 (i) Record-Keeping Requirements. – The fish dealer shall record each transaction at the  
41 time and place of landing on a form provided by the Division. The transaction form shall  
42 include the information on the SCFL or shellfish license, the quantity of the fish, the identity of  
43 the fish dealer, and other information as the Division deems necessary to accomplish the  
44 purposes of this Subchapter. The person who records the transaction shall provide a completed  
45 copy of the transaction form to the Division and to the other party of the transaction. The  
46 Division's copy of each transaction form shall be transmitted to the Division by the fish dealer  
47 on or before the tenth day of the month following the transaction.
- 48 **"§ 113-168.3. Retired Standard Commercial Fishing License.**
- 49 (a) SCFL Provisions Applicable. – Except as provided in this section, the provisions set  
50 forth in this Article concerning the SCFL shall apply to the RSCFL.

1 (b) Eligibility; Fees. – Any individual who is 65 years of age or older and who is  
2 eligible for a SCFL under G.S. 113-168.2 may apply for either a SCFL or RSCFL. An applicant  
3 for a RSCFL shall provide proof of age at the time the application is made. The annual fee for a  
4 RSCFL for a resident of this State shall be ~~one hundred dollars (\$100.00)~~ one hundred fifty  
5 (\$150.00). The annual fee for a RSCFL for a person who is not a resident of this State shall be  
6 two hundred twenty-five dollars (\$225.00), ~~eight hundred dollars (\$800)~~ or the amount charged  
7 ~~to a resident of this State in the nonresident's state, whichever is less. In no event, however,~~  
8 ~~shall the fee be less than one hundred dollars (\$100.00)~~. For purposes of this subsection, a  
9 "resident of this State" is a person who is a resident within the meaning of:

10 (1) Sub-subdivisions a. through d. of G.S. 113-130(4) and who filed a State  
11 income tax return as a resident of North Carolina for the previous calendar  
12 or tax year, or

13 (2) G.S. 113-130(4)e.

14 (c) Transfer. – The holder of a RSCFL may transfer the RSCFL as provided in  
15 G.S. 113-168.2.

16 (1) If the transferee is less than 65 years of age, the transferee holds a SCFL.  
17 When the transferee renews the SCFL, the transferee shall pay the fee set out  
18 in G.S. 113-168.2.

19 (2) If the transferee is 65 years of age or older, the transferee may elect to hold  
20 either a SCFL or RSCFL. If the transferee elects to hold a SCFL, the  
21 transferee shall pay the fee set out in G.S. 113-168.2. If the transferee elects  
22 to hold a RSCFL, the transferee shall pay the fee set out in this section.

23 (d) Assignment. – The RSCFL shall not be assignable.

24 **"§ 113-168.4. Sale of fish.**

25 (a) Except as otherwise provided in this section, it is unlawful for any person who takes  
26 or lands any species of fish under the authority of the Commission from coastal fishing waters  
27 by any means whatever, including mariculture operations, to sell, offer for sale, barter or  
28 exchange these fish for anything of value without holding a license required to sell the type of  
29 fish being offered.

30 (b) Except as otherwise provided in this section, it is unlawful for any person licensed  
31 under this Article to sell fish taken outside the territorial waters of the State or to sell fish taken  
32 from coastal fishing waters. A person licensed under this Article may sell fish taken outside the  
33 territorial waters of the State or sell fish taken from coastal fishing waters under any of the  
34 following circumstances:

35 (1) The sale is to a fish dealer licensed under G.S. 113-169.3.

36 (2) The sale is to the public and the seller is a licensed fish dealer under  
37 G.S. 113-169.3.

38 (3) The sale is of oysters or clams from a hatchery or aquaculture operation to  
39 the holder of an Aquaculture Operation Permit, an Under Dock Culture  
40 Permit, or a shellfish cultivation lease for further grow out.

41 (c) A person who organizes a recreational fishing tournament may sell fish taken in  
42 connection with the tournament pursuant to a recreational fishing tournament license to sell  
43 fish. A person who organizes a recreational fishing tournament may obtain a recreational  
44 fishing tournament license to sell fish upon application to the Division and payment of a fee of  
45 ~~one hundred dollars (\$100.00)~~ one hundred fifty dollars (\$150.00). It is unlawful for any person  
46 licensed under this subsection to sell fish to any person other than a fish dealer licensed under  
47 G.S. 113-169.3 unless the seller is also a licensed fish dealer. A recreational fishing tournament  
48 is an organized fishing competition occurring within a specified time period not to exceed one  
49 week and that is not a commercial fishing operation. Gross proceeds from the sale of fish may  
50 be used only for charitable, religious, educational, civic, or conservation purposes and shall not  
51 be used to pay tournament expenses.

1 ...

2 **"§ 113-168.6. Commercial fishing vessel registration.**

3 (a) As used in this subsection, a North Carolina vessel is a vessel that has its primary  
4 situs in the State. A vessel has its primary situs in the State if:

- 5 (1) A certificate of number has been issued for the vessel under Article 1 of  
6 Chapter 75A of the General Statutes;  
7 (2) A certificate of title has been issued for the vessel under Article 4 of Chapter  
8 75A of the General Statutes; or  
9 (3) A certification of documentation has been issued for the vessel that lists a  
10 home port in the State under 46 U.S.C. § 12101, et seq., as amended.

11 (b) The owner of a vessel used in a commercial fishing operation in the coastal fishing  
12 waters of the State or a North Carolina vessel used to land or sell fish in the State shall register  
13 the vessel with the Division. It is unlawful to use a vessel that is not registered with the  
14 Division in a commercial fishing or For Hire operation in the coastal fishing waters of the  
15 State. It is unlawful to use a North Carolina vessel that is not registered with the Division to  
16 land or sell fish in the State. No registration is required for a vessel of any length that does not  
17 have a motor if the vessel is used only in connection with another vessel that is properly  
18 registered.

19 (c) The annual fee for a commercial fishing vessel registration shall be determined by  
20 the length of the vessel and shall be in addition to the fee for other licenses issued under this  
21 Article. The length of a vessel shall be determined by measuring the distance between the ends  
22 of the vessel along the deck and through the cabin, excluding the sheer. The annual fee for a  
23 commercial fishing vessel registration is:

- 24 (1) ~~One dollar (\$1.00)~~ One dollar and fifty cents (\$1.50) per foot for a vessel not  
25 over 18 feet in length.  
26 (2) ~~One dollar and fifty cents (\$1.50)~~ Two dollars and twenty five cents (\$2.25)  
27 per foot for a vessel over 18 feet but not over 38 feet in length.  
28 (3) ~~Three dollars (\$3.00)~~ Four dollars and fifty cents (\$4.50) per foot for a  
29 vessel over 38 feet but not over 50 feet in length.  
30 (4) ~~Six dollars (\$6.00)~~ Nine dollars (\$9.00) per foot for a vessel over 50 feet in  
31 length.

32 (d) ~~A vessel may be registered at any office of the Division. A commercial fishing~~  
33 ~~vessel registration expires on the last day of the license year. The vessel owner at time of~~  
34 ~~application shall obtain either a commercial vessel endorsement if the vessel is intended~~  
35 ~~primarily for harvest of fish for sale, a For Hire endorsement if the vessel is intended primarily~~  
36 ~~for For Hire activities, or both endorsements if the vessel is engaged in both activities.~~

37 (e) ~~Within 30 days of the date on which the owner of a registered vessel transfers~~  
38 ~~ownership of the vessel, the new owner of the vessel shall notify the Division of the change in~~  
39 ~~ownership and apply for a replacement commercial fishing vessel registration. An application~~  
40 ~~for a replacement commercial fishing vessel registration shall be accompanied by proof of the~~  
41 ~~transfer of the vessel. The provisions of G.S. 113-168.1(h) apply to a replacement commercial~~  
42 ~~fishing vessel registration. Vessel owners who obtain a For Hire endorsement will be required~~  
43 ~~to submit logbooks summarizing catch and effort statistical data to the Division. The~~  
44 ~~commission may adopt rules detailing effective means and methods to accomplish this~~  
45 ~~requirement.~~

46 (f) A vessel may be registered at any office of the Division. A commercial fishing  
47 vessel registration expires on the last day of the license year.

48 (g) The owner of a vessel applying for a Commercial Fishing Vessel Registration with a  
49 For Hire endorsement must affirm liability coverage and knowledge of U.S. Coast Guard safety  
50 requirements.

1       (h) Within 30 days of the date on which the owner of a registered vessel transfers  
2 ownership of the vessel, the new owner of the vessel shall notify the Division of the change in  
3 ownership and apply for a replacement commercial fishing vessel registration. An application  
4 for a replacement commercial fishing vessel registration shall be accompanied by proof of the  
5 transfer of the vessel. The provisions of G.S. 113-168.1(h) apply to a replacement commercial  
6 fishing vessel registration.

7 ...  
8 **"§ 113-169.1. Permits for gear, equipment, and other specialized activities authorized.**

9       (a) The Commission may adopt rules to establish permits for gear, equipment, and  
10 specialized activities, including commercial fishing operations that do not involve the use of a  
11 vessel and transplanting oysters or clams. The Commission may establish a fee for each permit  
12 established pursuant to this subsection in an amount that compensates the Division for the  
13 administrative costs associated with the permit but that does not exceed two hundred dollars  
14 (\$200.00) per permit.

15       (b) The Commission may adopt rules to establish gear specific permits to take striped  
16 bass from the Atlantic Ocean and to limit the number and type of these permits that may be  
17 issued to a person. The Commission may establish a fee for each permit established pursuant to  
18 this subsection in an amount that compensates the Division for the administrative costs  
19 associated with the permit but that does not exceed ~~ten dollars (\$10.00)~~ fifty dollars (\$50.00)  
20 per permit.

21       (c) Advance Sale of Permits, Permit Revenue. – To ensure an orderly transition from  
22 one permit year to the next, the Division may issue a permit prior to 1 July of the permit year  
23 for which the permit is valid. Revenue that the Division receives for the issuance of a permit  
24 prior to the beginning of a license year shall not revert at the end of the fiscal year in which the  
25 revenue is received and shall be credited and available to the Division for the permit year in  
26 which the permit is valid.

27 **"§ 113-169.2. Shellfish license for North Carolina residents without a SCFL.**

28       (a) License or Endorsement Necessary to Take or Sell Shellfish. – It is unlawful for an  
29 individual to take shellfish from the public or private grounds of the State ~~by mechanical means~~  
30 or as part of a commercial fishing operation by ~~hand methods~~ any means without holding either  
31 a shellfish license or a shellfish endorsement of a SCFL. A North Carolina resident who seeks  
32 only to take and sell shellfish by hand methods shall be eligible to obtain a shellfish license  
33 without holding a SCFL. The shellfish license authorizes the licensee to sell shellfish.

34       (b) Repealed by Session Laws 1998-225, s. 4.17, effective July 1, 1999.

35       (c) Fees. – Shellfish licenses shall be issued annually upon payment of a fee of  
36 ~~twenty five dollars (\$25.00)~~ thirty-seven dollars and fifty cents (\$37.50) upon proof that the  
37 license applicant is a North Carolina resident.

38       (d) License Available for Inspection. – It is unlawful for any individual to take shellfish  
39 as part of a commercial fishing operation from the public or private grounds of the State  
40 without having ready at hand for inspection a current and valid shellfish license issued to the  
41 licensee personally and bearing the licensee's correct name and address. It is unlawful for any  
42 individual taking or possessing freshly taken shellfish to refuse to exhibit the individual's  
43 license upon the request of an officer authorized to enforce the fishing laws.

44       (e) Repealed by Session Laws 1998-225, s. 4.17, effective July 1, 1999.

45       (f) Name or Address Change. – In the event of a change in name or address or upon  
46 receipt of an erroneous shellfish license, the licensee shall, within 30 days, apply for a  
47 replacement shellfish license bearing the correct name and address. Upon a showing by the  
48 individual that the name or address change occurred within the past 30 days, the trial court or  
49 prosecutor shall dismiss any charges brought pursuant to this subsection.

50       (g) Transfer Prohibited. – It is unlawful for an individual issued a shellfish license to  
51 transfer or offer to transfer the license, either temporarily or permanently, to another. It is



1 unlawful for an individual to secure or attempt to secure a shellfish license from a source not  
2 authorized by the Commission.

3 (h) Exemption. – Persons under 16 years of age are exempt from the license  
4 requirements of this section if accompanied by a parent, grandparent, or guardian who is in  
5 compliance with the requirements of this section or if in possession of a parent's, grandparent's  
6 or guardian's shellfish license.

7 (i) Taking Shellfish Without a License for Personal Use. – Shellfish may be taken  
8 without a license for personal use in quantities established by rules of the Marine Fisheries  
9 Commission.

10 (j) Taking shellfish by mechanical means. – Shellfish taken by mechanical means is  
11 covered under G.S. 113-168.2.

12 **"§ 113-169.3. Licenses for fish dealers.**

13 (a) Eligibility. – A fish dealer license shall be issued to a North Carolina resident upon  
14 receipt of a proper application at any office of the Division together with all license fees  
15 including the total number of dealer categories set forth in this section. The license shall be  
16 issued in the name of the applicant and shall include all dealer categories on the license.

17 (b) Application for License. – Applications shall not be accepted from persons  
18 ineligible to hold a license issued by the Division, including any applicant whose license is  
19 suspended or revoked on the date of the application. The applicant shall be provided with a  
20 copy of the application marked received. The copy shall serve as the fish dealer's license until  
21 the license issued by the Division is received, or the Division determines that the applicant is  
22 ineligible to hold a license. Where an applicant does not have an established location for  
23 transacting the fisheries business within the State, the license application shall be denied unless  
24 the applicant satisfies the Secretary that his residence, or some other office or address within  
25 the State, is a suitable substitute for an established location and that records kept in connection  
26 with licensing, sale, and purchase requirements will be available for inspection when necessary.  
27 Fish dealers' licenses are issued on a fiscal year basis upon payment of a fee as set forth herein  
28 upon proof, satisfactory to the Secretary, that the license applicant is a North Carolina resident.

29 (c) License Requirement. – Any person subject to the licensing requirements of this  
30 section is a fish dealer. Any person subject to the licensing requirements of this section shall  
31 obtain a separate license for each physical location conducting activities required to be licensed  
32 under this section. Except as otherwise provided in this section, it is unlawful for any person  
33 not licensed pursuant to this Article:

- 34 (1) To buy fish for resale from any person involved in a commercial fishing  
35 operation that takes any species of fish from coastal fishing waters. For  
36 purposes of this subdivision, a retailer who purchases fish from a fish dealer  
37 shall not be liable if the fish dealer has not complied with the licensing  
38 requirements of this section;
- 39 (2) To sell fish to the public; or
- 40 (3) To sell to the public any species of fish under the authority of the  
41 Commission taken from coastal fishing waters.

42 (d) Exceptions to License Requirements. – The Commission may adopt rules to  
43 implement this subsection including rules to clarify the status of the listed classes of exempted  
44 persons, require submission of statistical data, and require that records be kept in order to  
45 establish compliance with this section. Any person not licensed pursuant to this section is  
46 exempt from the licensing requirements of this section if all fish handled within any particular  
47 licensing category meet one or more of the following requirements:

- 48 (1) The fish are sold by persons whose dealings in fish are primarily  
49 educational, scientific, or official, and who have been issued a permit by the  
50 Division that authorizes the educational, scientific, or official agency to sell

- 1 fish taken or processed in connection with research or demonstration  
2 projects;
- 3 (2) The fish are sold by individual employees of fish dealers when transacting  
4 the business of their duly licensed employer;
- 5 (3) The fish are shipped to a person by a dealer from without the State;
- 6 (4) The fish are of a kind the sale of which is regulated exclusively by the  
7 Wildlife Resources Commission; or
- 8 (5) The fish are purchased from a licensed dealer.
- 9 (e) Application Fee for New Fish Dealers. – An applicant for a new fish dealer license  
10 shall pay a nonrefundable application fee of ~~fifty dollars (\$50.00)~~ seventy-five dollars (\$75.00)  
11 in addition to the license category fees set forth in this section.
- 12 (f) License Category Fees. – Every fish dealer subject to licensing requirements shall  
13 secure an annual license at each established location for each of the following activities  
14 transacted there, upon payment of the fee set out:
- 15 (1) Dealing in oysters: ~~\$50.00~~ \$75.00;
- 16 (2) Dealing in scallops: ~~\$50.00~~ \$75.00;
- 17 (3) Dealing in clams: ~~\$50.00~~ \$75.00;
- 18 (4) Dealing in hard or soft crabs: ~~\$50.00~~ \$75.00;
- 19 (5) Dealing in shrimp, including bait: ~~\$50.00~~ \$75.00;
- 20 (6) Dealing in finfish, including bait: ~~\$50.00~~ \$75.00;
- 21 (7) Operating menhaden or other fish-dehydrating or oil-extracting processing  
22 plants: ~~\$50.00~~ \$75.00; or
- 23 (8) Consolidated license (all categories): ~~\$300.00~~ \$450.00.
- 24 (f1) Other License Categories. – Any person subject to fish dealer licensing  
25 requirements who deals in fish not included in the categories listed in subsection (f) of this  
26 section shall secure a finfish dealer license. The Commission may adopt rules implementing  
27 and clarifying the dealer categories of this section. Bait operations shall be licensed under  
28 either the finfish or shrimp dealer license categories.
- 29 (g) Repealed by Session Laws 1998-225, s. 4.18.
- 30 (h) Replacement License. – If the licensee fails to comply with the requirements of  
31 G.S. 113-168.1(h), the license is revoked.
- 32 (i) Unlawful Purchase and Sale of Fish. – It is unlawful for a fish dealer to purchase,  
33 possess, or sell fish taken from coastal fishing waters in violation of this Subchapter or the rules  
34 adopted by the Commission implementing this Subchapter. It is unlawful for a fish dealer to  
35 buy or accept fish unless, at the time of the transaction:
- 36 (1) The seller or donor presents a current and valid license to sell the type of fish  
37 being offered;
- 38 (2) The seller or donor presents the commercial fishing vessel registration of the  
39 vessel that was used to take the fish being offered; and
- 40 (3) The dealer records the transaction consistent with the record-keeping  
41 requirements of G.S. 113-168.2(i).
- 42 (j) Transfer Prohibited. – Any fish dealer license issued under this section is  
43 nontransferable. It is unlawful to use a fish dealer license issued to another person in the sale or  
44 attempted sale of fish or for a licensee to lend or transfer a fish dealer license for the purpose of  
45 circumventing the requirements of this section.
- 46 **"§ 113-169.4. Licensing of ocean fishing piers; fees.**
- 47 (a) The owner or operator of an ocean fishing pier within the coastal fishing waters who  
48 charges the public a fee to fish in any manner from the pier shall secure a current and valid pier  
49 license from the Division. An application for a pier license shall disclose the names of all  
50 parties involved in the pier operations, including the owner of the property, owner of the pier if

1 different, and all leasehold or other corporate arrangements, and all persons with a substantial  
2 financial interest in the pier.

3 (b) Within 30 days following a change of ownership of a pier, or a change as to the  
4 manager, the manager or new manager shall secure a replacement pier license as provided in  
5 G.S. 113-168.1(h).

6 (c) Pier licenses are issued upon payment of ~~fifty cents (50¢)~~ seven dollars and fifty  
7 cents (\$7.50) per linear foot, to the nearest foot, that the pier extends into coastal fishing waters  
8 beyond the mean high waterline. The length of the pier shall be measured to include all  
9 extensions of the pier. The Ocean Pier license authorizes all individuals who do not hold a  
10 Coastal Recreational Fishing License to engage in recreational fishing while on the pier.

11 (d) The manager who secures the pier license shall be the individual with the duty of  
12 executive-level supervision of pier operations.

13 **"§ 113-169.5. Land or sell license; vessels fishing beyond territorial waters.**

14 (a) Persons aboard vessels not having their primary situs in the State that are carrying a  
15 cargo of fish taken outside the waters of the State may land or sell their catch in the State by  
16 purchasing a land or sell license as set forth in this section with respect to the vessel in  
17 question. The Commission may by rule modify the land or sell licensing procedure in order to  
18 devise an efficient and convenient procedure for licensing out-of-state vessels to only land, or  
19 after landing to permit sale of cargo.

20 (b) The fee for a land or sell license for a vessel not having its primary situs in North  
21 Carolina is ~~two hundred dollars (\$200.00)~~ three hundred (\$300.00), or an amount equal to the  
22 nonresident fee charged by the nonresident's state, whichever is greater. Persons aboard vessels  
23 having a primary situs in a jurisdiction that would allow North Carolina vessels without  
24 restriction to land or sell their catch, taken outside the jurisdiction, may land or sell their catch  
25 in the State without complying with this section if the persons are in possession of a valid  
26 license from their state of residence.

27 ...

28 **"§ 113-171.1. Use of spotter planes in commercial fishing operations regulated.**

29 (a) Spotter Plane Defined. – A "spotter plane" is an aircraft used for aerial identification  
30 of the location of fish in coastal fishing waters so that a vessel may be directed to the fish.

31 (b) License. – Before an aircraft is used as a spotter plane in a commercial fishing  
32 operation, the owner or operator of the aircraft must obtain a license for the aircraft from the  
33 Division. The fee for a license for a spotter plane is ~~one hundred dollars (\$100.00)~~ one hundred  
34 fifty dollars (\$150.00). An applicant for a license for a spotter plane shall include in the  
35 application the identity, either by boat or by company, of the specific commercial fishing  
36 operations in which the spotter plane will be used during the license year. If, during the course  
37 of the license year, the aircraft is used as a spotter plane in a commercial fishing operation that  
38 is not identified in the original license application, the owner or operator of the aircraft shall  
39 amend the license application to add the identity of the additional commercial fishing  
40 operation.

41 (c) Unlawful Activity. – It shall be unlawful to:

- 42 (1) Use a spotter plane directed at food fish, except in connection with a purse  
43 seine operation authorized by a rule of the Commission.
- 44 (2) Use or permit the use of an unlicensed spotter plane or a licensed spotter  
45 plane whose license application does not identify the specific commercial  
46 fishing operation involved.
- 47 (3) Participate knowingly in a commercial fishing operation that uses an  
48 unlicensed spotter plane or a licensed spotter plane whose license application  
49 does not identify the specific commercial fishing operation involved.

50 (d) Violation a Misdemeanor. – A violation of subsection (c) of this section is a Class 1  
51 misdemeanor.

1 ...

2 **"§ 113-173. Recreational Commercial Gear License.**

3 (a) License Required. – Except as provided in subsection (j) of this section, it is  
4 unlawful for any person to take or attempt to take fish for recreational purposes by means of  
5 commercial fishing equipment or gear in coastal fishing waters without holding a RCGL. As  
6 used in this section, fish are taken for recreational purposes if the fish are not taken for the  
7 purpose of sale. The RCGL entitles the licensee to use authorized commercial gear to take fish  
8 for personal use subject to recreational possession limits. It is unlawful for any person licensed  
9 under this section or fishing under a RCGL to possess fish in excess of recreational possession  
10 limits.

11 (b) Sale of Fish Prohibited. – It is unlawful for the holder of a RCGL or for a person  
12 who is exempt under subsection (j) of this section to sell fish taken under the RCGL or  
13 pursuant to the exemption.

14 (c) Authorized Commercial Gear. –

15 (1) The Commission shall adopt rules authorizing the use of a limited amount of  
16 commercial fishing equipment or gear for recreational fishing under a  
17 RCGL. The Commission may authorize the limited use of commercial gear  
18 on a uniform basis in all coastal fishing waters or may vary the limited use  
19 of commercial gear within specified areas of the coastal fishing waters. The  
20 Commission shall periodically evaluate and revise the authorized use of  
21 commercial gear for recreational fishing. Authorized commercial gear shall  
22 be identified by visible colored tags or other means specified by the  
23 Commission in order to distinguish between commercial gear used in a  
24 commercial operation and commercial gear used for recreational purposes.

25 (2) A person who holds a RCGL may use up to 100 yards of gill net to take fish  
26 for recreational purposes. Two persons who each hold a RCGL and who are  
27 fishing from a single vessel may use up to a combined 200 yards of gill net  
28 to take fish for recreational purposes. No more than 200 yards of gill net  
29 may be used to take fish for recreational purposes from a single vessel  
30 regardless of the number of persons aboard the vessel who hold a RCGL.

31 (d) Purchase; Renewal. – A RCGL may be purchased at designated offices of the  
32 Division and from a license agent authorized under G.S. 113-172. A RCGL may be renewed by  
33 mail.

34 (e) Replacement RCGL. – The provisions of G.S. 113-168.1(h) apply to this section.

35 (f) Duration; Fees. – The RCGL shall be valid for a one-year period from the date of  
36 purchase. The fee for a RCGL for a North Carolina resident shall be ~~thirty-five dollars (\$35.00)~~  
37 fifty-two dollars and fifty cents (\$52.50). The fee for a RCGL for an individual who is not a  
38 North Carolina resident shall be ~~two hundred fifty dollars (\$250.00)~~ three hundred seventy-five  
39 dollars (\$375.00).

40 (g) RCGL Available for Inspection. – It is unlawful for any person to engage in  
41 recreational fishing by means of restricted commercial gear in the State without having ready at  
42 hand for inspection a valid RCGL. A holder of a RCGL shall not refuse to exhibit the RCGL  
43 upon the request of an inspector or any other law enforcement officer authorized to enforce  
44 federal or State laws, regulations, or rules relating to marine fisheries.

45 (h) Assignment and Transfer Prohibited. – A RCGL is not transferable. Except as  
46 provided in subsection (j) of this section, it is unlawful to buy, sell, lend, borrow, assign, or  
47 otherwise transfer a RCGL, or to attempt to buy, sell, lend, borrow, assign, or otherwise  
48 transfer a RCGL.

49 (i) Reporting Requirements. – The holder of a RCGL shall comply with the biological  
50 data sampling and survey programs of the Commission and the Division.

51 (j) Exemptions. –

- 1 (1) A person who is under 16 years of age may take fish for recreational  
2 purposes by means of authorized commercial gear without holding a RCGL  
3 if the person is accompanied by a parent, grandparent, or guardian who holds  
4 a valid RCGL or if the person has in the person's possession a valid RCGL  
5 issued to the person's parent, grandparent, or guardian.
- 6 (2) A person may take crabs for recreational purposes by means of one or more  
7 crab pots attached to the shore along privately owned land or to a privately  
8 owned pier without holding a RCGL provided that the crab pots are attached  
9 with the permission of the owner of the land or pier.
- 10 (3) A person who is on a vessel may take fish for recreational purposes by  
11 means of authorized commercial gear without holding a RCGL if there is  
12 another person on the vessel who holds a valid RCGL. This exemption does  
13 not authorize the use of commercial gear in excess of that authorized for use  
14 by the person who holds the valid RCGL or, if more than one person on the  
15 vessel holds a RCGL, in excess of that authorized for use by those persons.
- 16 (4) A person using nonmechanical means may take shellfish for personal use  
17 within the limits specified in G.S. 113-169.2(i) without holding a RCGL.
- 18 (5) A person may take fish for recreational purposes by means of a gig without  
19 holding a RCGL."

20 **SECTION 13.11.** G.S. 113-203 reads as rewritten:

21 **"§ 113.203. Transplanting of oysters and clams.**

22 (a) It is unlawful to transplant oysters taken from public grounds to private beds except:

- 23 (1) When lawfully taken during open season and transported directly to a private  
24 bed in accordance with rules of the Marine Fisheries Commission.
- 25 (2) Repealed by Session Laws 2009-433, s. 6, effective August 7, 2009.
- 26 (3) When the transplanting is done in accordance with the provisions of this  
27 section and implementing rules.

28 (a1) It is lawful to transplant seed clams less than 12 millimeters in their largest  
29 dimension and seed oysters less than 25 millimeters in their largest dimension and when the  
30 seed clams and seed oysters originate from an aquaculture operation permitted by the Secretary.

31 (b) It is lawful to transplant to private beds oysters or clams taken from polluted waters  
32 with a permit from the Secretary setting out the waters from which the oysters or clams may be  
33 taken, the quantities which may be taken, the times during which the taking is permissible, and  
34 other reasonable restrictions imposed by the Secretary for the regulation of transplanting  
35 operations. Any transplanting operation which does not substantially comply with the  
36 restrictions of the permit issued is unlawful.

37 (c) Repealed by Session Laws 2009-433, s. 6, effective August 7, 2009.

38 (d) It is lawful to transplant to private beds in North Carolina oysters taken from natural  
39 or managed public beds designated by the Marine Fisheries Commission as seed oyster  
40 management areas. The Secretary shall issue permits to all qualified individuals who are  
41 residents of North Carolina without regard to county of residence to transplant seed oysters  
42 from said designated seed oyster management areas, setting out the quantity which may be  
43 taken, the times which the taking is permissible and other reasonable restrictions imposed to aid  
44 the Secretary in the Secretary's duty of regulating such transplanting operations. Persons taking  
45 such seed oysters may, in the discretion of the Marine Fisheries Commission, be required to  
46 pay to the Department for oysters taken an amount to reimburse the Department in full or in  
47 part for the costs of seed oyster management operations. Any transplanting operation which  
48 does not substantially comply with the restrictions of the permit issued is unlawful.

49 (e) The Marine Fisheries Commission may implement the provisions of this section by  
50 rules governing sale, possession, transportation, storage, handling, planting, and harvesting of  
51 oysters and clams and setting out any system of marking oysters and clams or of permits or

1 receipts relating to them generally, from both public and private beds, as necessary to regulate  
2 the lawful transplanting of seed oysters and oysters or clams taken from or placed on public or  
3 private beds.

4 (f) The Commission may establish a fee for each permit established pursuant to this  
5 subsection in an amount that compensates the Division for the administrative costs associated  
6 with the permit but that does not exceed two hundred dollars (\$200.00) per permit.

7 (g) Advance Sale of Permits, Permit Revenue. – To ensure an orderly transition from  
8 one permit year to the next, the Division may issue a permit prior to 1 July of the permit year  
9 for which the permit is valid. Revenue that the Division receives for the issuance of a permit  
10 prior to the beginning of a license year shall not revert at the end of the fiscal year in which the  
11 revenue is received and shall be credited and available to the Division for the permit year in  
12 which the permit is valid."

13 **SECTION 13.12.** G.S.°113-174.4 is repealed.

14 "~~§ 113-174.4. Ocean Fishing Pier Blanket CRFL.~~

15 ~~Ocean Fishing Pier Blanket CRFL.— A person who owns or operates an ocean fishing pier~~  
16 ~~and who charges a fee to allow a person to engage in recreational fishing from the pier may~~  
17 ~~purchase an Ocean Fishing Pier Blanket CRFL issued by the Division. An Ocean Fishing Pier~~  
18 ~~Blanket CRFL authorizes all individuals who do not hold a license issued under this Article or~~  
19 ~~Article 25A of this Chapter to engage in recreational fishing in coastal fishing waters while on~~  
20 ~~the pier. This license is valid for a period of one year from the date of issuance. The fee for an~~  
21 ~~Ocean Fishing Pier Blanket CRFL is four dollars (\$4.00) per linear foot, to the nearest foot, that~~  
22 ~~the pier extends into coastal fishing waters beyond the mean high waterline. The length of the~~  
23 ~~pier shall be measured to include all extensions of the pier."~~

24 **SECTION 13.13.** G.S.°113–210 reads as rewritten:

25 "**§ 113-210. Under Dock Oyster Culture.**

26 (a) Under Dock Oyster Culture Permit. – An Under Dock Oyster Culture Permit  
27 authorizes the holder of the permit to attach up to 90 square feet of oyster cultivation containers  
28 to a dock or pier owned by the permit holder.

29 (b) Application. – The owner of a dock or pier who wishes to obtain an Under Dock  
30 Oyster Culture Permit shall apply to the Director of the Division of Marine Fisheries.

31 (c) Issuance. – The Director of the Division of Marine Fisheries shall issue an Under  
32 Dock Oyster Culture Permit only if the Director determines all of the following:

33 (1) That the dock or pier is not located in an area that the State Health Director  
34 has recommended be closed to shellfish harvest due to pollution or that has  
35 been closed to harvest by statute, rule, or proclamation due to suspected  
36 pollution.

37 (2) That the owner of the dock or pier has satisfied the training requirements  
38 established by the Marine Fisheries Commission pursuant to subsection (j)  
39 of this section.

40 (3) That the attachment of the oyster cultivation containers to the dock or pier  
41 will be compatible with all lawful uses by the public of other marine and  
42 estuarine resources. Other lawful public uses include, but are not limited to,  
43 navigation, fishing, and recreation.

44 (d) Duration. – An Under Dock Oyster Culture Permit is valid for a one-year period  
45 from the date of issuance.

46 (e) Renewal. – The Director of the Division of Marine Fisheries shall renew an Under  
47 Dock Oyster Culture Permit only if the Director determines the requirements of subsection (c)  
48 of this section continue to be satisfied and the holder of the permit is attempting to utilize the  
49 permit to cultivate oysters on a continuing basis.

1 (f) Reporting Requirements. – The holder of an Under Dock Oyster Culture Permit  
2 shall comply with the biological data sampling and survey programs of the Marine Fisheries  
3 Commission and the Division of Marine Fisheries.

4 (g) Posting of Signs. – The holder of an Under Dock Oyster Culture Permit shall post  
5 signs that indicate the presence of the oyster cultivation containers and that the oyster  
6 cultivation containers and their contents are private property.

7 (h) Sale of Oysters Prohibited. – It is unlawful for the holder of an Under Dock Oyster  
8 Culture Permit to sell oysters cultivated pursuant to the permit.

9 (i) Assignment and Transfer Prohibited. – An Under Dock Oyster Culture Permit is not  
10 assignable or transferable.

11 (j) Oyster Cultivation Training Requirements. – The Marine Fisheries Commission, in  
12 consultation with the Sea Grant College Program at The University of North Carolina, shall  
13 develop and adopt rules for the training of individuals who cultivate oysters pursuant to this  
14 section.

15 (k) Revocation of Permit. – If the Director of the Division of Marine Fisheries  
16 determines that the holder of an Under Dock Oyster Culture Permit has failed to comply with  
17 any provision of this section, the Director shall revoke the Permit. The owner of the dock or  
18 pier shall remove the oyster cultivation containers that were authorized by the revoked permit  
19 within 15 days of revocation.

20 (l) Fees. – Under the Dock Oyster Culture Permit shall be issued annually upon  
21 payment of a fee of two hundred dollars (\$200.00).

22 (m) Advance Sale of Permits, Permit Revenue. – To ensure an orderly transition from  
23 one permit year to the next, the Division may issue a permit prior to 1 July of the permit year  
24 for which the permit is valid. Revenue that the Division receives for the issuance of a permit  
25 prior to the beginning of a license year shall not revert at the end of the fiscal year in which the  
26 revenue is received and shall be credited and available to the Division for the permit year in  
27 which the permit is valid."

28 **SECTION 13.14.** G.S. 113–221.2 reads as rewritten:

29 **"§ 113-221.2. Commission to adopt rules; enforcement of rules. Additional rules to**  
30 **establish sanitation requirements for scallops, shellfish, and crustacea.**

31 For the protection of the public health, the Marine Fisheries Commission shall adopt rules  
32 establishing sanitation requirements for the harvesting, processing and handling of scallops,  
33 shellfish shellfish, and crustacea of in-State origin. The rules of the Marine Fisheries  
34 Commission may also regulate scallops, shellfish shellfish, and crustacea shipped into North  
35 Carolina. The Department is authorized to enforce the rules and may ~~issue and revoke permits~~  
36 issue, revoke, and establish a fee for each permit issued that does not exceed one hundred  
37 dollars (\$100.00) according to the rules.

38 Advance Sale of Permits, Permit Revenue. – To ensure an orderly transition from one  
39 permit year to the next, the Division may issue a permit prior to 1 July of the permit year for  
40 which the permit is valid. Revenue that the Division receives for the issuance of a permit prior  
41 to the beginning of a license year shall not revert at the end of the fiscal year in which the  
42 revenue is received and shall be credited and available to the Division for the permit year in  
43 which the permit is valid."

44 **Section 13.15.** G.S. 143B-289.52 reads as rewritten:

45 **"§ 143B-289.52. Marine Fisheries Commission – powers and duties.**

46 (a) The Marine Fisheries Commission shall adopt rules to be followed in the  
47 management, protection, preservation, and enhancement of the marine and estuarine resources  
48 within its jurisdiction, as described in G.S. 113-132, including commercial and sports fisheries  
49 resources. The Marine Fisheries Commission shall have the power and duty:

50 (1) To authorize, license, regulate, prohibit, prescribe, or restrict all forms of  
51 marine and estuarine resources in coastal fishing waters with respect to:

- 1 a. Time, place, character, or dimensions of any methods or equipment
- 2 that may be employed in taking fish.
- 3 b. Seasons for taking fish.
- 4 c. Size limits on and maximum quantities of fish that may be taken,
- 5 possessed, bailed to another, transported, bought, sold, or given
- 6 away.
- 7 (2) To provide fair regulation of commercial and recreational fishing groups in
- 8 the interest of the public.
- 9 (3) To adopt rules and take all steps necessary to develop and improve
- 10 mariculture, including the cultivation, harvesting, and marketing of shellfish
- 11 and other marine resources in the State, involving the use of public grounds
- 12 and private beds as provided in G.S. 113-201.
- 13 (4) To close areas of public bottoms under coastal fishing waters for such time
- 14 as may be necessary in any program of propagation of shellfish as provided
- 15 in G.S. 113-204.
- 16 (5) In the interest of conservation of the marine and estuarine resources of the
- 17 State, to institute an action in the superior court to contest the claim of title
- 18 or claimed right of fishery in any navigable waters of the State registered
- 19 with the Department as provided in G.S. 113-206(d).
- 20 (6) To make reciprocal agreements with other jurisdictions respecting any of the
- 21 matters governed in this Subchapter as provided by G.S. 113-223.
- 22 (7) To adopt relevant provisions of federal laws and regulations as State rules
- 23 pursuant to G.S. 113-228.
- 24 (8) To delegate to the Fisheries Director the authority by proclamation to
- 25 suspend or implement, in whole or in part, a particular rule of the
- 26 Commission that may be affected by variable conditions as provided in
- 27 G.S. 113-221.1.
- 28 (9) To comment on and otherwise participate in the determination of permit
- 29 applications received by State agencies that may have an effect on the
- 30 marine and estuarine resources of the State.
- 31 (10) To adopt Fishery Management Plans as provided in G.S. 113-182.1, to
- 32 establish a Priority List to determine the order in which Fishery Management
- 33 Plans are developed, to establish a Schedule for the development and
- 34 adoption of each Fishery Management Plan, and to establish guidance
- 35 criteria as to the contents of Fishery Management Plans.
- 36 (11) To approve Coastal Habitat Protection Plans as provided in
- 37 G.S. 143B-279.8.
- 38 (12) Except as may otherwise be provided, to make the final agency decision in
- 39 all contested cases involving matters within the jurisdiction of the
- 40 Commission.
- 41 (13) To adopt rules to define fishing gear as either recreational gear or
- 42 commercial gear.
- 43 (b) The Marine Fisheries Commission shall have the power and duty to establish
- 44 standards and adopt rules:
- 45 (1) To implement the provisions of Subchapter IV of Chapter 113 as provided in
- 46 G.S. 113-134.
- 47 (2) To manage the disposition of confiscated property as set forth in
- 48 G.S. 113-137.
- 49 (3) To govern all license requirements prescribed in Article 14A of Chapter 113
- 50 of the General Statutes.



- 1 (4) To regulate the importation and exportation of fish, and equipment that may  
2 be used in taking or processing fish, as necessary to enhance the  
3 conservation of marine and estuarine resources of the State as provided in  
4 G.S. 113-170.
- 5 (5) To regulate the possession, transportation, and disposition of seafood, as  
6 provided in G.S. 113-170.4.
- 7 (6) To regulate the disposition of the young of edible fish, as provided by  
8 G.S. 113-185.
- 9 (7) To manage the leasing of public grounds for mariculture, including oysters  
10 and clam production, as provided in G.S. 113-202.
- 11 (8) To govern the utilization of private fisheries, as provided in G.S. 113-205.
- 12 (9) To impose further restrictions upon the throwing of fish offal in any coastal  
13 fishing waters, as provided in G.S. 113-265.
- 14 (10) To regulate the location and utilization of artificial reefs in coastal waters.
- 15 (11) To regulate the placement of nets and other sports or commercial fishing  
16 apparatus in coastal fishing waters with regard to navigational or recreational  
17 safety as well as from a conservation standpoint.

18 (c) The Commission is authorized to authorize, license, prohibit, prescribe, or restrict:

- 19 (1) The opening and closing of coastal fishing waters, except as to inland game  
20 fish, whether entirely or only as to the taking of particular classes of fish, use  
21 of particular equipment, or as to other activities.
- 22 (2) The possession, cultivation, transportation, importation, exportation, sale,  
23 purchase, acquisition, and disposition of all marine and estuarine resources  
24 and all related equipment, implements, vessels, and conveyances as  
25 necessary to carry out its duties.

26 (d) The Commission may adopt rules required by the federal government for  
27 grants-in-aid for coastal resource purposes that may be made available to the State by the  
28 federal government. This section is to be liberally construed in order that the State and its  
29 citizens may benefit from federal grants-in-aid.

30 (d1) ~~The Commission may regulate participation in a fishery that is subject to a federal  
31 fishery management plan if that plan imposes a quota on the State for the harvest or landing of  
32 fish in the fishery. The commission may use any additional criteria aside from holding a  
33 Standard Commercial Fishing License to develop limited entry fisheries. ~~If the Commission  
34 regulates participation in a fishery under this subsection, the Division may issue a license to  
35 participate in the fishery to a person who:~~~~

- 36 ~~(1) Held a valid license issued by the Division to harvest, land, or sell fish  
37 during at least two of the three license years immediately preceding the date  
38 adopted by the Commission to determine participation in the fishery; and~~
- 39 ~~(2) Participated in the fishery during at least two of those license years by  
40 landing in the State at least the minimum number of pounds of fish adopted  
41 by the Commission to determine participation in the fishery.~~
- 42 (3) The Commission may establish a fee for each license established pursuant to  
43 this subsection in an amount that does not exceed one thousand dollars  
44 (\$1,000) per license.

45 Advance Sale of Permits, Permit Revenue. – To ensure an orderly transition from one  
46 permit year to the next, the Division may issue a permit prior to 1 July of the permit year for  
47 which the permit is valid. Revenue that the Division receives for the issuance of a permit prior  
48 to the beginning of a license year shall not revert at the end of the fiscal year in which the  
49 revenue is received and shall be credited and available to the Division for the permit year in  
50 which the permit is valid.

1 (e) The Commission may adopt rules to implement or comply with a fishery  
2 management plan adopted by the Atlantic States Marine Fisheries Commission or adopted by  
3 the United States Secretary of Commerce pursuant to the Magnuson-Stevens Fishery  
4 Conservation and Management Act, 16 U.S.C. § 1801, et seq. Notwithstanding  
5 G.S. 150B-21.1(a), the Commission may adopt temporary rules under this subsection at any  
6 time within six months of the adoption or amendment of a fishery management plan or the  
7 notification of a change in management measures needed to remain in compliance with a  
8 fishery management plan.

9 (f) The Commission shall adopt rules as provided in this Chapter. All rules adopted by  
10 the Commission shall be enforced by the Department of Environment and Natural Resources.

11 (g) As a quasi-judicial agency, the Commission, in accordance with Article IV, Section  
12 3 of the Constitution of North Carolina, has those judicial powers reasonably necessary to  
13 accomplish the purposes for which it was created.

14 (h) Social security numbers and identifying information obtained by the Commission or  
15 the Division of Marine Fisheries shall be treated as provided in G.S. 132-1.10. For purposes of  
16 this subsection, "identifying information" also includes a person's mailing address, residence  
17 address, date of birth, and telephone number.

18 (i) The Commission may adopt rules to exempt individuals who participate in  
19 organized fishing events held in coastal or joint fishing waters from recreational fishing license  
20 requirements for the specified time and place of the event when the purpose of the event is  
21 consistent with the conservation objectives of the Commission."

22 **SECTION 13.16.** G.S. 113-182.1 reads as rewritten:

23 **"§ 113-182.1 Fishery Management Plans.**

24 (a) The Department shall prepare proposed Fishery Management Plans for adoption by  
25 the Marine Fisheries Commission for all commercially or recreationally significant species or  
26 fisheries that comprise State marine or estuarine resources. Proposed Fishery Management  
27 Plans shall be developed in accordance with the Priority List, Schedule, and guidance criteria  
28 established by the Marine Fisheries Commission under G.S. 143B-289.52.

29 (b) The goal of the plans shall be to ensure the long-term viability of the State's  
30 commercially and recreationally significant species or fisheries. Each plan shall be designed to  
31 reflect fishing practices so that one plan may apply to a specific fishery, while other plans may  
32 be based on gear or geographic areas. Each plan shall:

33 (1) Contain necessary information pertaining to the fishery or fisheries,  
34 including management goals and objectives, status of relevant fish stocks,  
35 stock assessments for multiyear species, fishery habitat and water quality  
36 considerations consistent with Coastal Habitat Protection Plans adopted  
37 pursuant to G.S. 143B-279.8, social and economic impact of the fishery to  
38 the State, and user conflicts.

39 (2) Recommend management actions pertaining to the fishery or fisheries.

40 (3) Include conservation and management measures that will provide the  
41 greatest overall benefit to the State, particularly with respect to food  
42 production, recreational opportunities, and the protection of marine  
43 ecosystems, and that will produce a sustainable harvest.

44 (4) Repealed by Session Laws 2010-13, s. 1, effective June 23, 2010.

45 (5) Specify a time period, not to exceed two years from the date of the adoption  
46 of the plan, to implement measures to end ~~for ending~~ overfishing. ~~This~~  
47 ~~subdivision shall only apply to a plan for a fishery that is not producing a~~  
48 ~~sustainable harvest. This subdivision shall not apply if the Fisheries Director~~  
49 determines that the biology of the fish, environmental conditions, or lack of  
50 sufficient data make implementing the requirements of this subdivision  
51 incompatible with professional standards for fisheries management.

1 (6) Specify a time period, not to exceed 10 years from the date of the adoption  
2 of the plan, for achieving a sustainable harvest. This subdivision shall not  
3 apply if the Fisheries Director determines that the biology of the fish,  
4 environmental conditions, or lack of sufficient data make implementing the  
5 requirements of this subdivision incompatible with professional standards  
6 for fisheries management.

7 (7) Include a standard of at least fifty percent (50%) probability of achieving  
8 sustainable harvest for the fishery or fisheries. This subdivision shall not  
9 apply if the Fisheries Director determines that the biology of the fish  
10 environmental conditions, or lack of sufficient data make implementing the  
11 requirements of this subdivision incompatible with professional standards  
12 for fisheries management.

13 (c) To assist in the development of each Fishery Management Plan, the Chair of the  
14 Marine Fisheries Commission shall appoint a fishery management plan advisory committee.  
15 Each fishery management plan advisory committee shall be composed of commercial  
16 fishermen, recreational fishermen, and scientists, all with expertise in the fishery for which the  
17 Fishery Management Plan is being developed.

18 (c1) The Department shall consult with the regional advisory committees established  
19 pursuant to G.S. 143B-289.57(e) regarding the preparation of each Fishery Management Plan.  
20 Before submission of a plan for review by the Joint Legislative Commission on Governmental  
21 Operations, the Department shall review any comment or recommendation regarding the plan  
22 that a regional advisory committee submits to the Department within the time limits established  
23 in the Schedule for the development and adoption of Fishery Management Plans established by  
24 G.S. 143B-289.52. Before the Commission adopts a management measure to implement a plan,  
25 the Commission shall review any comment or recommendation regarding the management  
26 measure that a regional advisory committee submits to the Commission.

27 (d) Each Fishery Management Plan shall be reviewed at least once every five years. The  
28 Marine Fisheries Commission may revise the Priority List and guidance criteria whenever it  
29 determines that a revision of the Priority List or guidance criteria will facilitate or improve the  
30 development of Fishery Management Plans or is necessary to restore, conserve, or protect the  
31 marine and estuarine resources of the State. The Marine Fisheries Commission may not revise  
32 the Schedule for the development of a Fishery Management Plan, once adopted, without the  
33 approval of the Secretary of Environment and Natural Resources.

34 (e) The Secretary of Environment and Natural Resources shall monitor progress in the  
35 development and adoption of Fishery Management Plans in relation to the Schedule for  
36 development and adoption of the plans established by the Marine Fisheries Commission. The  
37 Secretary of Environment and Natural Resources shall report to the Joint Legislative  
38 Commission on Governmental Operations on progress in developing and implementing the  
39 Fishery Management Plans on or before 1 September of each year. The Secretary of  
40 Environment and Natural Resources shall report to the Joint Legislative Commission on  
41 Governmental Operations within 30 days of the completion or substantial revision of each  
42 proposed Fishery Management Plan. The Joint Legislative Commission on Governmental  
43 Operations shall review each proposed Fishery Management Plan within 30 days of the date the  
44 proposed Plan is submitted by the Secretary. The Joint Legislative Commission on  
45 Governmental Operations may submit comments and recommendations on the proposed Plan  
46 to the Secretary within 30 days of the date the proposed Plan is submitted by the Secretary.

47 (e1) If the Secretary determines that it is in the interest of the long-term viability of a  
48 fishery, the Secretary may authorize the Commission to develop temporary management  
49 measures to supplement an existing Fishery Management Plan pursuant to this subsection.  
50 Development of temporary management measures pursuant to this subsection is exempt from  
51 subsections (c), (c1), and (e) of this section and the Priority List, Schedule, and guidance

1 criteria established by the Marine Fisheries Commission under G.S. 143B-289.52. During the  
2 next review period for a Fishery Management Plan supplemented pursuant to this subsection,  
3 the Commission shall either incorporate the temporary management measures into the revised  
4 Fishery Management Plan or the temporary management measures shall expire on the date the  
5 revised Fishery Management Plan is adopted.

6 (f) The Marine Fisheries Commission shall adopt rules to implement Fishery  
7 Management Plans in accordance with Chapter 150B of the General Statutes.

8 (g) To achieve sustainable harvest under a Fishery Management Plan, the Marine  
9 Fisheries Commission may include in the Plan a recommendation that the General Assembly  
10 limit the number of fishermen authorized to participate in the fishery. The Commission may  
11 recommend that the General Assembly limit participation in a fishery only if the Commission  
12 determines that sustainable harvest cannot otherwise be achieved. In determining whether to  
13 recommend that the General Assembly limit participation in a fishery, the Commission shall  
14 consider all of the following factors:

- 15 (1) Current participation in and dependence on the fishery.
- 16 (2) Past fishing practices in the fishery.
- 17 (3) Economics of the fishery.
- 18 (4) Capability of fishing vessels used in the fishery to engage in other fisheries.
- 19 (5) Cultural and social factors relevant to the fishery and any affected fishing  
20 communities.
- 21 (6) Capacity of the fishery to support biological parameters.
- 22 (7) Equitable resolution of competing social and economic interests.
- 23 (8) Any other relevant considerations.

24 **SECTION 13.17.** G.S. 113–174.3 reads as rewritten:

25 **"§ 113-174.3. For Hire Blanket CRFL.**

26 ~~(a) License.—A person who operates a for hire boat may purchase a For Hire Blanket~~  
27 ~~CRFL issued by the Division for the for hire boat. A For Hire Blanket CRFL authorizes all~~  
28 ~~individuals on the for hire boat who do not hold a license issued under this Article or Article~~  
29 ~~25A of this Chapter to engage in recreational fishing in coastal fishing waters that are not joint~~  
30 ~~fishing waters. A For Hire Blanket CRFL does not authorize individuals to engage in~~  
31 ~~recreational fishing in joint fishing waters or inland fishing waters. A For Hire Blanket CRFL is~~  
32 ~~valid for a period of one year from the date of issuance. The fee for a For Hire Blanket CRFL~~  
33 ~~is:~~

34 ~~(1) Two hundred fifty dollars (\$250.00) for a vessel that will carry six or fewer~~  
35 ~~passengers.~~

36 ~~(2) Three hundred fifty dollars (\$350.00) for a vessel that will carry greater than~~  
37 ~~six passengers.~~

38 ~~(b) Implementation.—Except as provided in this section and G.S. 113-174.2(d), each~~  
39 ~~individual on board a for hire boat engaged in recreational fishing, other than crew members~~  
40 ~~who do not engage in recreational fishing, must hold a license issued under this Article or~~  
41 ~~Article 25A of this Chapter. An owner, operator, or crew member of a for hire boat is not~~  
42 ~~responsible for the licensure of a customer fishing from the boat.~~

43 (a) License. – A person who operates a For Hire vessel has the option to purchase one  
44 of the following For Hire Licenses:

- 45 (1) Blanket For Hire Captains CRFL – this license allows individuals properly  
46 licensed by the U.S. Coast Guard to carry passengers on any vessel with a  
47 commercial vessel registration with a For Hire endorsement. A Blanket for  
48 Hire Captains license authorizes all individuals on the For Hire boat who do  
49 not hold a license issued under this Article or Article 25A of this Chapter to  
50 engage in recreational fishing in coastal fishing waters that are not joint  
51 fishing waters. The fee is two hundred fifty dollars (\$250.00), non-residents

1 three hundred seventy-five dollars (\$375.00), to carry six or fewer  
2 passengers and three hundred fifty dollars (\$350.00), non-residents five  
3 hundred twenty-five (\$525.00), for a vessel that will carry more than six  
4 passengers.

5 (2) Blanket For Hire Vessel CRFL – this license allows any U.S. Coast Guard  
6 licensed operator to carry passengers aboard the licensed vessel. A Blanket  
7 For Hire Vessel license authorizes all individuals on the For Hire boat who  
8 do not hold a license issued under this Article or Article 25A of this Chapter  
9 to engage in recreational fishing in coastal fishing waters that are not joint  
10 fishing waters. The fee is two hundred fifty dollars (\$250.00), non-residents  
11 three hundred seventy-five dollars (\$375.00), for a vessel that will carry six  
12 or fewer passengers and three hundred fifty dollars (\$350.00), non-residents  
13 five hundred twenty-five dollars (\$525.00), for a vessel that will carry more  
14 than six passengers.

15 (3) Non-Blanket For Hire Vessel license – this license allows any U.S. Coast  
16 Guard licensed operator to carry passengers aboard the licensed vessel. This  
17 license does not authorize individuals aboard the vessel to engage in  
18 recreational fishing unless they hold an individual Coastal Recreational  
19 Fishing License issued under this Article or Article 25A of this Chapter. The  
20 fee for this license is fifty dollars (\$50.00), non-residents seventy-five  
21 dollars (\$75.00).

22 (b) Any vessel engaged in For Hire fishing, with the exception of those vessels that  
23 hold a Blanket For Hire Vessel license, must obtain a Commercial fishing Vessel Registration  
24 with a For Hire endorsement.

25 A For Hire Blanket CRFL does not authorize individuals to engage in recreational fishing  
26 in joint or inland fishing waters.

27 All For Hire Blanket CRFLs are valid for a period of one year from the date of issuance.  
28 All For Hire blanket CRFLs expire on the last day of the license year."

## 29 30 **PART XIV. DEPARTMENT OF COMMERCE**

### 31 32 **FLEXIBILITY OF THE DEPARTMENT OF COMMERCE TO REORGANIZE THE** 33 **DEPARTMENT TO ESTABLISH A PUBLIC/PRIVATE PARTNERSHIP**

34 **SECTION 14.1.(a)** Notwithstanding any other provision of law, and consistent  
35 with the authority granted in G.S. 143B-10, the Secretary of the Department of Commerce may  
36 use up to one million dollars (\$1,000,000) in available funds to reorganize positions and related  
37 operational costs within the Department to establish a public/private partnership which includes  
38 cost containment measures. Actions under this section may only be implemented after the  
39 Office of State Budget and Management has approved a proposal submitted by the Department.  
40 Proposals under this section shall include, at a minimum, the positions involved and strategies  
41 to achieve efficiencies.

42 **SECTION 14.1.(b)** The Department shall report on any actions under this section  
43 to the House of Representatives Appropriations Subcommittee on Natural and Economic  
44 Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the  
45 Fiscal Research Division. The report shall include the positions involved and strategies to  
46 achieve efficiencies. The report is due to the House and Senate Appropriations Subcommittees  
47 on Natural and Economic Resources and the Fiscal Research Division no later than June 30,  
48 2014.

### 49 50 **NER BLOCK GRANTS**

1           **SECTION 14.2.(a)** Appropriations from federal block grant funds are made for the  
2 fiscal year ending June 30,2014, according to the following schedule:

3 **COMMUNITY DEVELOPMENT BLOCK GRANT**

4	01. State Administration	\$1,275,000
5	02. State Technical Assistance	450,000
6	03. Scattered Site Housing	7,200,000
7	04. Economic Development	6,825,000
8	05. Small Business/Entrepreneurship	2,500,000
9	06. NC Catalyst	4,500,000
10	07. Infrastructure	19,600,000
11	08. Capacity Building	600,000

12 **TOTAL COMMUNITY DEVELOPMENT**

13 **BLOCK GRANT – 2013-2014 Program Year** \$42,950,000

14           **SECTION 14.2.(b)** Decreases in Federal Fund Availability. – If federal funds are  
15 reduced below the amounts specified above after the effective date of this act, then every  
16 program in each of these federal block grants shall be reduced by the same percentage as the  
17 reduction in federal funds.

18           **SECTION 14.2.(c)** Increases in Federal Fund Availability for Community  
19 Development Block Grant. – Any block grant funds appropriated by the Congress of the United  
20 States in addition to the funds specified in this section shall be expended as follows: each  
21 program category under the Community Development Block Grant shall be increased by the  
22 same percentage as the increase in federal funds.

23           **SECTION 14.2.(d)** Limitations on Community Development Block Grant Funds. –  
24 Of the funds appropriated in this section for the Community Development Block Grant, the  
25 following shall be allocated in each category for each program year: up to one million two  
26 hundred seventy-five thousand dollars (\$1,275,000) may be used for State Administration; up  
27 to four hundred fifty thousand dollars (\$450,000) may be used for State Technical Assistance;  
28 up to seven million two hundred thousand dollars (\$7,200,000) may be used for Scattered Site  
29 Housing; up to six million eight hundred twenty-five thousand dollars (\$6,825,000) may be  
30 used for Economic Development; up to two million five hundred thousand dollars (\$2,500,000)  
31 may be used for Small Business/Entrepreneurship; up to four million five hundred thousand  
32 dollars (\$4,500,000) shall be used for NC Catalyst; up to nineteen million six hundred thousand  
33 dollars (\$19,600,000) may be used for Infrastructure; up to six hundred thousand dollars  
34 (\$600,000) may be used for Capacity Building. If federal block grant funds are reduced or  
35 increased by the Congress of the United States after the effective date of this act, then these  
36 reductions or increases shall be allocated in accordance with subsection (b) or (c) of this  
37 section, as applicable.

38           **SECTION 14.2.(e)** The Department of Commerce shall consult with the Joint  
39 Legislative Commission on Governmental Operations prior to reallocating Community  
40 Development Block Grant Funds. Notwithstanding the provisions of this subsection, whenever  
41 the Director of the Budget finds that:

- 42           (1) A reallocation is required because of an emergency that poses an imminent  
43 threat to public health or public safety, the Director of the Budget may  
44 authorize the reallocation without consulting the Commission. The  
45 Department of Commerce shall report to the Commission on the reallocation  
46 no later than 30 days after it was authorized and shall identify in the report  
47 the emergency, the type of action taken, and how it was related to the  
48 emergency.
- 49           (2) The State will lose federal block grant funds or receive less federal block  
50 grant funds in the next fiscal year unless a reallocation is made, the  
51 Department of Commerce shall provide a written report to the Commission

1 on the proposed reallocation and shall identify the reason that failure to take  
2 action will result in the loss of federal funds. If the Commission does not  
3 hear the issue within 30 days of receipt of the report, the Department may  
4 take the action without consulting the Commission.

5 **SECTION 14.2.(f)** By September 1 of each fiscal year, the Division of Community  
6 Assistance, Department of Commerce, shall report to the Joint Legislative Commission on  
7 Governmental Operations and the Fiscal Research Division on the use of Community  
8 Development Block Grant Funds appropriated in the prior fiscal year. The report shall include  
9 the following:

- 10 (1) A discussion of each of the categories of funding and how the categories  
11 were selected, including information on how a determination was made that  
12 there was a statewide need in each of the categories.
- 13 (2) Information on the number of applications that were received in each  
14 category and the total dollar amount requested in each category.
- 15 (3) A list of grantees, including the grantee's name, county, category under  
16 which the grant was funded, the amount awarded, and a narrative description  
17 of the project.

18 **SECTION 14.2.(g)** For purposes of this section, eligible activities under the  
19 category of Infrastructure in subsection (a) of this section are limited to the installation of  
20 public water or sewer lines and improvements to water or sewer treatment plants that have  
21 specific problems such as being under moratoriums or special orders of consent.  
22

23 **SECTION 14.3.** G.S. 143B-437.55 reads as rewritten:

24 **"§ 143B-437.55. Applications; fees; reports; study.**

25 (a) Application. – A business shall apply, under oath, to the Committee for a grant on a  
26 form prescribed by the Committee that includes at least all of the following:

- 27 (1) The name of the business, the proposed location of the project, and the type  
28 of activity in which the business will engage at the project site or sites.
- 29 (2) The names and addresses of the principals or management of the business,  
30 the nature of the business, and the form of business organization under  
31 which it is operated.
- 32 (3) The financial statements of the business prepared by a certified public  
33 accountant and any other financial information the Committee considers  
34 necessary.
- 35 (4) The number of eligible positions proposed to be created for the project and  
36 the salaries for these positions.
- 37 (5) An estimate of the total withholdings.
- 38 (6) Certification that the business will provide health insurance to full-time  
39 employees of the project as required by G.S. 143B-437.53(c).
- 40 (7) Information concerning other locations, including locations in other states  
41 and countries, being considered for the project and the nature of any benefits  
42 that would accrue to the business if the project were to be located in one of  
43 those locations.
- 44 (8) Information concerning any other State or local government incentives for  
45 which the business is applying or that it has an expectation of receiving.
- 46 (9) Any other information necessary for the Committee to evaluate the  
47 application.

48 A business may apply, in one consolidated application in a form and manner determined by  
49 the Committee, for a grant that may include performance by related members of the business  
50 who may qualify under this Part.

1 The Committee will consider an application by a business for a grant that includes  
2 performance of its related members only if the related members for whom the application is  
3 submitted assign to the business any claim of right the related members may have under this  
4 Part to apply for grants individually during the term of the agreement and agree to cooperate  
5 with the business in providing to the Committee all the information required for the initial  
6 application and the agreement, and any other information the Committee may require for the  
7 purposes of this Part. The applicant business is responsible for providing to the Committee all  
8 the information required under this Part.

9 If a business applies for a grant that includes performance by its related members, the  
10 related members included in the application may be permitted to meet the qualifications for a  
11 grant collectively by participating in a project that meets the requirements of this Part. The  
12 amount of a grant may be calculated under the terms of this Part as if the related members were  
13 all collectively one business entity. Any conditions for a grant, other than the number of  
14 eligible positions created, apply to each related member who is listed in the application as  
15 participating in the project. The grant awarded shall be paid to the approved grantee business  
16 only. A grant received under this Part by a business may be apportioned to the related members  
17 in a manner determined by the business. In order for an agreement to be executed, each related  
18 member included in the application must sign the agreement and agree to abide by its terms.

19 (b) Application Fee. – When filing an application under this section, the business must  
20 pay the Committee a fee of ~~five thousand dollars (\$5,000)~~ seven thousand five hundred dollars  
21 (\$7,500). The fee is due at the time the application is filed. The Secretary of Commerce, the  
22 Secretary of Revenue, and the Director of the Office of State Budget and Management shall  
23 determine the allocation of the fee imposed by this section among their agencies. The proceeds  
24 of the fee are receipts of the agency to which they are credited.

25 (c) Annual Reports. – The Committee shall publish a report on the Job Development  
26 Investment Grant Program on or before April 30 of each year. The Committee shall submit the  
27 report electronically to the House of Representatives Finance Committee, the Senate Finance  
28 Committee, the House of Representatives Appropriations Subcommittee on Natural and  
29 Economic Resources, the Senate Appropriations Committee on Natural and Economic  
30 Resources, and the Fiscal Research Division. The report shall include the following:

- 31 (1) A listing of each grant awarded during the preceding calendar year,  
32 including the name of the business, the cost/benefit analysis conducted by  
33 the Committee during the application process, a description of the project,  
34 the term of the grant, the percentage of withholdings used to determine the  
35 amount of the grant, the annual maximum State liability under the grant, and  
36 the maximum total lifetime State liability under the grant.
- 37 (2) An update on the status of projects under grants awarded before the  
38 preceding calendar year.
- 39 (3) The number and development tier area of eligible positions to be created by  
40 projects with respect to which grants have been awarded.
- 41 (3a) A listing of the employment level for all businesses receiving a grant and  
42 any changes in those levels from the level of the next preceding year.
- 43 (4) The wage levels of all eligible positions to be created by projects with  
44 respect to which grants have been awarded, aggregated and listed in  
45 increments of ten thousand dollars (\$10,000) or other appropriate  
46 increments.
- 47 (5) The amount of new income tax revenue received from withholdings related  
48 to the projects for which grants have been awarded.
- 49 (6) For the first annual report after adoption of the criteria developed by the  
50 Committee, in consultation with the Attorney General, to implement this



- 1 Part, a copy of such criteria, and, for subsequent reports, identification of  
2 any changes in those criteria from the previous calendar year.
- 3 (7) The number of awards made to new businesses and the number of awards  
4 made to existing, expanding businesses in the preceding calendar year.
- 5 (8) The environmental impact of businesses that have received grants under the  
6 program.
- 7 (9) The geographic distribution of grants, by number and amount, awarded  
8 under the program.
- 9 (10) Repealed by Session Laws 2009-394, s. 2, effective July 31, 2009.
- 10 (11) A listing of all businesses making an application under this Part and an  
11 explanation of whether each business ultimately located the project in this  
12 State regardless of whether the business was awarded a grant for the project  
13 under this Part.
- 14 (12) Repealed by Session Laws 2006-168, s. 1.4, effective July 27, 2006.
- 15 (13) The total amount transferred to the Utility Account of the Industrial  
16 Development Fund under this Part during the preceding year.
- 17 (d) Repealed by Session Laws 2012-142, s. 13.4(f), effective July 1, 2012.
- 18 (e) Study. – The Committee shall conduct a study to determine the minimum funding  
19 level required to implement the Job Development Investment Grant Program successfully. The  
20 Committee shall report the results of this study to the House of Representatives Finance  
21 Committee, the Senate Finance Committee, the House of Representatives Appropriations  
22 Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on  
23 Natural and Economic Resources, and the Fiscal Research Division no later than April 1 of  
24 each year."
- 25

26 **SECTION 14.3A.** G.S. 143B-437.58 reads as rewritten:

27 "**§ 143B-437.58. Grant recipient to submit records.**

28 (a) No later than March 1 of each year, for the preceding grant year, every business that  
29 is awarded a grant under this Part shall submit to the Committee an annual payroll report  
30 showing withholdings as a condition of its continuation in the grant program and identifying  
31 eligible positions that have been created during the base period that remain filled at the end of  
32 each year of the grant. Annual reports submitted to the Committee shall include social security  
33 numbers of individual employees identified in the reports. Upon request of the Committee, the  
34 business shall also submit a copy of its State and federal tax returns. Payroll and tax  
35 information, including social security numbers of individual employees and State and federal  
36 tax returns, submitted under this subsection is tax information subject to G.S. 105-259.  
37 Aggregated payroll or withholding tax information submitted or derived under this subsection  
38 is not tax information subject to G.S. 105-259. When making a submission under this section,  
39 the business must pay the Committee a fee of ~~one thousand five hundred dollars (\$1,500)~~ two  
40 thousand five hundred (\$2,500). The fee is due at the time the submission is made. The  
41 Secretary of Commerce, the Secretary of Revenue, and the Director of the Office of State  
42 Budget and Management shall determine the allocation of the fee imposed by this section  
43 among their agencies. The proceeds of the fee are receipts of the agency to which they are  
44 credited.

45 (b) The Committee may require any information that it considers necessary to  
46 effectuate the provisions of this Part.

47 (c) The Committee may require any business receiving a grant to submit to an audit at  
48 any time.

49 (d) The reporting procedures of this section are in lieu of any other general reporting  
50 requirements relating to private entities that receive State funds."

51

1           **SECTION 14.4.** Notwithstanding the provisions of G.S. 143B-437.01, of proceeds  
 2 that are credited to the Industrial Development Fund Utility Account during the 2013-2015  
 3 biennium five million dollars (\$5,000,000) for each year of the biennium may be used for the  
 4 operating expenses of the Department of Commerce on a nonrecurring basis.

5  
 6 **ONE NORTH CAROLINA FUND**

7           **SECTION 14.5.** Of the funds appropriated in this act to the One North Carolina  
 8 Fund for the 2013-2015 biennium, the Department of Commerce may use up to two hundred  
 9 fifty thousand dollars (\$250,000) in each year to cover its expenses in administering the One  
 10 North Carolina Fund and other economic development incentive grant programs. The  
 11 Department of Commerce shall not use more than two hundred fifty thousand dollars  
 12 (\$250,000) for administrative costs in any one fiscal year.

13  
 14 **NER/COMMERCE/SET REGULATORY FEE FOR UTILITIES COMMISSION**

15           **SECTION 14.6.(a)** The percentage rate to be used in calculating the public utility  
 16 regulatory fee under G.S. 62-302(b)(2) is thirteen-hundredths of one percent (0.13%) for each  
 17 public utility's North Carolina jurisdictional revenues earned during each quarter that begins on  
 18 or after July 1, 2013.

19           **SECTION 14.6.(b)** The electric membership corporation regulatory fee imposed  
 20 under G.S. 62-302(b1) for the 2011-2012 fiscal year is two hundred thousand dollars  
 21 (\$200,000).

22           **SECTION 14.6.(c)** This section becomes effective July 1, 2013.

23  
 24 **REPLACEMENT OF THE ELECTRONIC DOCUMENT MANAGEMENT SYSTEM**  
 25 **(EDMS)**

26           **SECTION 14.7.** The Industrial Commission may all utilize up to one million eight  
 27 hundred thousand dollars (\$1,800,000) of available funds in Budget Code 24611 to replace the  
 28 Electronic Document Management System (EDMS).

29  
 30 **RURAL ECONOMIC DEVELOPMENT CENTER**

31           **SECTION 14.8.(a)** Of the funds appropriated in this act to the North Carolina  
 32 Rural Economic Development Center, Inc., (Rural Center) the sum of two million nine hundred  
 33 ninety-two thousand eight hundred forty-six dollars (\$2,992,846) for each year in the  
 34 2013-2015 biennium shall be allocated as follows:

	2013-2014	2014-2015
Center Administration, Technical Assistance, & Oversight	\$1,062,049	\$1,062,049
Rural Jobs Research and Demonstration	\$239,883	\$239,883
Micro Business Loan and Development Program	\$126,915	\$126,915
Community Economic Development	\$688,568	\$688,568
Critical Needs Infrastructure	\$572,512	\$572,512
Agricultural Advancement Consortium	\$ 74,619	\$ 74,619
Institute for Rural Entrepreneurship	\$ 93,443	\$ 93,443
Statewide Water/Sewer Database	\$ 64,859	\$ 64,859

45           **SECTION 14.8.(b)** For purposes of this section, the term "community economic  
 46 development" shall refer to activities performed by community development corporations or  
 47 Opportunities Industrialization Centers:

- 48           (1) That are nonprofit organizations chartered pursuant to Chapter 55A of the  
 49 General Statutes;
- 50           (2) That are tax-exempt pursuant to section 501(c)(3) of the Internal Revenue  
 51 Code of 1986;

- 1 (3) That are able to demonstrate that there are no outstanding or proposed  
2 assessments or other collection actions against the corporation for any State  
3 or federal taxes, including related penalties, interest, and fees;
- 4 (4) Whose primary mission is to develop and improve low-income communities  
5 and neighborhoods and Tier 1 counties through economic and community  
6 development;
- 7 (5) Whose activities and decisions are initiated, managed, and controlled by the  
8 constituents of those local communities; and
- 9 (6) Whose primary function is to act as deal maker and packager of projects and  
10 activities that will increase their constituencies' opportunities to become  
11 owners, managers, and producers of small businesses, affordable housing,  
12 and jobs designed to produce positive cash flow and curb blight in the  
13 targeted community.

14 **SECTION 14.8.(c)** In awarding grants, the Rural Center shall give preference to a  
15 project involving a resident company. For purposes of this section, the term "resident company"  
16 means a company that has paid unemployment taxes or income taxes in this State and whose  
17 principal place of business is located in this State. An application for a project that serves an  
18 economically distressed area shall have priority over a project that does not. A grant to assist  
19 with water infrastructure needs is not subject to the provisions of G.S. 143-355.4.

20 **SECTION 14.8.(d)** By September 1 of each year, and more frequently as  
21 requested, the Rural Center shall report to the Joint Legislative Commission on Governmental  
22 Operations and the Fiscal Research Division on prior State fiscal year program activities,  
23 objectives, and accomplishments and prior State fiscal year itemized expenditures and fund  
24 sources.

25 **SECTION 14.8.(e)** Beginning Fiscal Year 2013-2015, no more than one hundred  
26 twenty thousand dollars (\$120,000) in State funds shall be used for the annual salary of any one  
27 employee of the Rural Center.

## 29 RURAL ECONOMIC DEVELOPMENT CENTER/INFRASTRUCTURE PROGRAM

30 **SECTION 14.9.** Section 14.17 of S.L. 2012-142 reads as rewritten:

31 **"SECTION 14.17.(a)** Of the funds appropriated in this act to the North Carolina Rural  
32 Economic Development Center, Inc. (Rural Center), the sum of ~~thirteen million four hundred~~  
33 ~~sixty two thousand forty three dollars (\$13,462,043)~~ three million three hundred ninety-two  
34 thousand forty-three (\$3,392,043) for the 2012-2013 fiscal year each year in the 2013-2015  
35 biennium shall be allocated as follows:

- 36 (1) To continue the North Carolina Infrastructure Program. The purpose of the  
37 Program is to provide grants to local governments to construct critical water  
38 and wastewater facilities and to provide other infrastructure needs, including  
39 technology needs, to sites where these facilities will generate private  
40 job-creating investment. The grants under this Program shall not be subject  
41 to the provisions of G.S. 143-355.4.
- 42 (2) To provide matching grants or loans to local governments in distressed areas  
43 that will productively reuse vacant buildings and properties, with priority  
44 given to towns or communities with populations of less than 5,000.
- 45 (3) To provide grants and technical assistance to reinvigorate the economies of  
46 towns with populations of less than 7,500, and to invest in economic  
47 innovation that stimulates business and job growth in distressed areas.
- 48 (4) Recipients of grant funds appropriated under this section shall contribute a  
49 cash match for the grant that is equivalent to at least five percent (5%) of the  
50 grant amount. The cash match shall come from local resources and may not

1 be derived from other State or federal grant funds or from funds provided by  
2 the Rural Center.

3 ...  
4 "**SECTION 14.17.(c)** ~~For the 2012-2013 fiscal year, During each year of 2013-2015~~  
5 biennium, the Rural Center may use up three percent (3%) of the funds appropriated in this  
6 section to cover its expenses in administering the North Carolina Economic Infrastructure  
7 Program."

#### 8 9 **OPPORTUNITIES INDUSTRIALIZATION CENTERS FUNDS**

10 **SECTION 14.10.(a)** Of the funds appropriated in this act to the North Carolina  
11 Rural Economic Development Center, Inc. (Rural Center), the sum two hundred thirty-four  
12 thousand three hundred five dollars (\$234,305) for each year in the 2013-2015 biennium shall  
13 be equally distributed among the certified Opportunities Industrialization Centers (OI Centers).  
14

#### 15 **NORTH CAROLINA BIOTECHNOLOGY CENTER**

16 **SECTION 14.10.(a1)** Any reductions in funds in the 2013-2015 biennium shall be  
17 taken on a pro rata basis from the programs listed in subsection (a) of this section.  
18

#### 19 **NORTH CAROLINA BIOTECHNOLOGY CENTER**

20 **SECTION 14.11.(a)** Of the funds appropriated in this act to the North Carolina  
21 Biotechnology Center (Center), the sum of seven million two hundred thousand six hundred  
22 seventy-six dollars (\$7,200,676) for each fiscal year in the 2013-2015 biennium shall be  
23 allocated as follows:

- 24 (1) Job Creation: Ag Biotech Initiative, Economic and Industrial Development,  
25 Regional Offices and Statewide Development, and related activities –  
26 \$1,584,148;
- 27 (2) Science and Commercialization: Science and Technology Development,  
28 Centers of Innovation, Business and Technology Development, Education  
29 and Training, and related activities – \$4,608,433; and
- 30 (3) Center Operations: Administration, Professional and Technical Assistance  
31 and Oversight, Corporate Communications, Human Resource Management,  
32 Financial and Grant Administration, Legal, and Accounting – \$1,005,095.

33 **SECTION 14.11.(b)** Except to provide administrative flexibility, up to ten percent  
34 (10%) of each of the allocations in subsection (a) of this section may be reallocated to one or  
35 more of the other allocations in subsection (a) of this section if, in the judgment of Center  
36 management, the reallocation will advance the mission of the Center.

37 **SECTION 14.11.(c)** The Center shall comply with the following reporting  
38 requirements:

- 39 (1) By September 1 of each year, and more frequently as requested, report to the  
40 Joint Legislative Commission on Governmental Operations and the Fiscal  
41 Research Division on prior State fiscal year program activities, objectives,  
42 and accomplishments and prior State fiscal year itemized expenditures and  
43 fund sources.
- 44 (2) Provide to the Fiscal Research Division a copy of the Center's annual audited  
45 financial statement within 30 days of issuance of the statement.

46 **SECTION 14.11.(d)** Remaining allotments after September 1 shall not be released  
47 to the Center if it does not satisfy the reporting requirements provided in subsection (b) of this  
48 section.

49 **SECTION 14.11.(e)** Beginning in fiscal year 2012-2013, no more than one  
50 hundred twenty thousand dollars (\$120,000) in State funds shall be used for the annual salary  
51 of any one employee of the Center.

1  
2           **SECTION 14.12.** Of the funds appropriated to the Department of Commerce in  
3 fiscal year 2013-2014, fifty-five thousand four hundred seventy-two dollars (\$55,472) shall be  
4 made available to the High Point Furniture Market. The Department of Commerce shall carry  
5 forward three hundred fifty-five thousand four hundred seventy-two dollars (\$355,472) in  
6 reversions from fiscal year 2013-2014 to be provided to the High Point Furniture Market in  
7 fiscal year 2014-2015.

8  
9           **SECTION 14.13.** Of the funds appropriated to the Department of Commerce in  
10 fiscal year 2013-2014, three million eight hundred twenty-four thousand nine hundred  
11 forty-nine dollars (\$3,824,949) shall be made available to the Institute for Regenerative  
12 Medicine.

13           The Department of Commerce shall carry forward seven million six hundred  
14 forty-nine thousand eight hundred ninety-seven dollars (\$7,649,897) in reversions from fiscal  
15 year 2013-2014 to be provided to the Institute of Regenerative Medicine in fiscal year  
16 2014-2015.

17  
18           **SECTION 14.14.** G.S. 143B-437.52 reads as rewritten:  
19 **"§ 143B-437.52. Job Development Investment Grant Program.**

20           (a) Program. – There is established the Job Development Investment Grant Program to  
21 be administered by the Economic Investment Committee. In order to foster job creation and  
22 investment in the economy of this State, the Committee may enter into agreements with  
23 businesses to provide grants in accordance with the provisions of this Part. The Committee, in  
24 consultation with the Attorney General, shall develop criteria to be used in determining whether  
25 the conditions of this section are satisfied and whether the project described in the application  
26 is otherwise consistent with the purposes of this Part. Before entering into an agreement, the  
27 Committee must find that all the following conditions are met:

- 28           (1) The project proposed by the business will create, during the term of the  
29 agreement, a net increase in employment in this State by the business.  
30           (2) The project will benefit the people of this State by increasing opportunities  
31 for employment and by strengthening this State's economy by, for example,  
32 providing worker training opportunities, constructing and enhancing critical  
33 infrastructure, increasing development in strategically important industries,  
34 or increasing the State and local tax base.  
35           (3) The project is consistent with economic development goals for the State and  
36 for the area where it will be located.  
37           (4) A grant under this Part is necessary for the completion of the project in this  
38 State.  
39           (5) The total benefits of the project to the State outweigh its costs and render the  
40 grant appropriate for the project.

41           (b) Priority. – In selecting between applicants, a project that is located in an  
42 Eco-Industrial Park certified under G.S. 143B-437.08 has priority over a comparable project  
43 that is not located in a certified Eco-Industrial Park.

44           (c) Awards. – The maximum amount of total annual liability for grants awarded in any  
45 single ~~calendar year~~ State fiscal biennium under this Part, including amounts transferred to the  
46 Utility Account pursuant to G.S. 143B-437.61, is ~~fifteen~~ thirty million dollars  
47 ~~(\$15,000,000).~~ (\$30,000,000). Except that, for the 2013-2015 biennium, the maximum total  
48 liability for grants awarded shall not exceed twenty-two million five hundred thousand dollars  
49 (\$22,500,000). No agreement may be entered into that, when considered together with other  
50 existing agreements governing grants awarded during a single ~~calendar year~~ State fiscal

1 biennium, could cause the State's potential total annual liability for grants awarded in a single  
 2 calendar year State fiscal biennium to exceed this amount.

3 (d) Measuring Employment. – For the purposes of subdivision (a)(1) of this section and  
 4 G.S. 143B-437.51(5), 143B-437.51(7), and 143B-437.57(a)(11), the Committee may designate  
 5 that the increase or maintenance of employment is measured at the level of a division or  
 6 another operating unit of a business, rather than at the business level, if both of the following  
 7 conditions are met:

- 8 (1) The Committee makes an explicit finding that the designation is necessary to  
 9 secure the project in this State.
- 10 (2) The agreement contains terms to ensure that the business does not create  
 11 eligible positions by transferring or shifting to the project existing positions  
 12 from another project of the business or a related member of the business.

13  
 14 **BIOFUELS CENTER - TVA SETTLEMENT FUNDS**

15 **SECTION 14.15.** In fiscal year 2013-2014, The Energy Division of the  
 16 Department of Commerce is directed to apply for two million two hundred forty thousand  
 17 dollars (\$2,240,000) in funding from the Tennessee Valley Authority (TVA) Settlement  
 18 Agreement in compliance with the requirements of paragraphs 122 through 128 of the Consent  
 19 Decree. Instead of making the funding available to the Biofuels Center as outlined in the  
 20 continuation budget for the Department of Commerce – State Aid; the requested funding will  
 21 be transferred from the Department of Commerce to the North Carolina Department of  
 22 Agriculture to be used by the agricultural and forestry sectors to use and produce renewable  
 23 energy and carbon sequestration. This request represents the third installment of five that is  
 24 available of the eleven million two hundred thousand dollars (\$11,200,000) in funding for the  
 25 State of North Carolina to be drawn down from TVA Settlement Funds.

26  
 27 **PART XV. JUDICIAL BRANCH**

28  
 29 **OFFICE OF INDIGENT DEFENSE SERVICES EXPANSION FUNDS**

30 **SECTION 15.1.** The Judicial Department, Office of Indigent Defense Services,  
 31 may use appropriated funds during each year of the 2013-2015 biennium for the expansion of  
 32 existing offices currently providing legal services to the indigent population under the oversight  
 33 of the Office of Indigent Defense Services, for the creation of new public defender offices  
 34 within existing public defender programs or for the establishment of regional public defender  
 35 programs. Notwithstanding the defender districts established by G.S. 7A-498.7, the Office of  
 36 Indigent Defense Services may use a portion of these funds to create positions within existing  
 37 public defender programs to handle cases in adjacent counties or districts. These funds may be  
 38 used for the salaries, benefits, equipment, and related expenses for up to 30 attorney positions  
 39 and 15 support positions during the biennium with the total annualized cost of these positions  
 40 no more than three million eight hundred thousand dollars (\$3,800,000). The Office of Indigent  
 41 Defense Services shall stagger creation of these positions over the biennium, based on analyses  
 42 of cost-effectiveness and other needs. Prior to using funds for this purpose, the Office of  
 43 Indigent Defense Services shall report to the Chairs of the House of Representatives and the  
 44 Senate Appropriations Subcommittees on Justice and Public Safety on the proposed expansion.

45  
 46 **JUDICIAL STAFFING STATUTE FOR MAGISTRATES.**

47 **SECTION 15.2.** G.S. 7A-133(c) is amended:

48 "(c) **(Effective July 1, 2013)** Each county shall have the numbers of magistrates and  
 49 additional seats of district court, as set forth in the following table:

50 Additional Magistrates Seats of County	Min. Court
51 Camden	3

1	Chowan	3
2	Currituck	<u>34</u>
3	Dare	4
4	Gates	2
5	Pasquotank	4
6	Perquimans	3
7	Martin	<u>34</u>
8	Beaufort	4
9	Tyrrell	3
10	Hyde	3.5
11	Washington	3
12	Pitt	10.5
13	Farmville	
14	Ayden	
15	Craven	8
16	Havelock	
17	Pamlico	3
18	Carteret	6
19	Sampson	5
20	Duplin	4
21	Jones	2
22	Onslow	11
23	New Hanover	11
24	Pender	3.8
25	Halifax	7
26	Roanoke Rapids,	
27	Scotland Neck	
28	Northampton	3
29	Bertie	3
30	Hertford	<u>34</u>
31	Nash	9
32	Rocky Mount	
33	Edgecombe	7
34	Rocky Mount	
35	Wilson	7
36	Wayne	9
37	Mount Olive	
38	Greene	3
39	Lenoir	7
40	La Grange	
41	Granville	5
42	Vance	6
43	Warren	3
44	Franklin	4
45	Person	4
46	Caswell 3	
47	Wake	18.5
48	Apex,	
49	Wendell,	
50	Fuquay-Varina,	
51	Wake Forest	

1	Harnett	8
2	Dunn	
3	Johnston	10
4	Benson,	
5	Clayton,	
6	Selma	
7	Lee	5
8	Cumberland	19
9	Bladen	<u>34</u>
10	Brunswick	8
11	Columbus	5
12	Tabor City	
13	Durham	13
14	Alamance	12
15	Burlington	
16	Orange	7
17	Chapel Hill	
18	Chatham	4
19	Siler City	
20	Scotland	5
21	Hoke	<u>34</u>
22	Robeson	12
23	Fairmont,	
24	Maxton,	
25	Pembroke,	
26	Red Springs,	
27	Rowland,	
28	St. Pauls	
29	Rockingham	7
30	Reidsville,	
31	Eden,	
32	Madison	
33	Stokes	<u>34</u>
34	Surry	6
35	Mt. Airy	
36	Guilford	24.4
37	High Point	
38	Cabarrus	9
39	Kannapolis	
40	Montgomery	<u>34</u>
41	Randolph	9
42	Liberty	
43	Rowan	9
44	Stanly	5
45	Union	7
46	Anson	<u>34</u>
47	Richmond	5
48	Hamlet	
49	Moore	5
50	Southern Pines	
51	Forsyth	15



1	Kernersville	
2	Alexander	<u>34</u>
3	Davidson	8
4	Thomasville	
5	Davie	<u>34</u>
6	Iredell	9
7	Mooresville	
8	Alleghany	2
9	Ashe	3
10	Wilkes	6
11	Yadkin	<u>34</u>
12	Avery	3
13	Madison	3
14	Mitchell	3
15	Watauga	4
16	Yancey	3
17	Burke	5.6
18	Caldwell	6
19	Catawba	10
20	Hickory	
21	Mecklenburg	26.50
22	Gaston	17
23	Cleveland	7
24	Lincoln	5
25	Buncombe	15
26	Henderson	6.5
27	McDowell	<u>34</u>
28	Polk	3
29	Rutherford	6
30	Transylvania	<u>34</u>
31	Cherokee	<u>34</u>
32	Clay	2
33	Graham	2
34	Haywood	5
35	Canton	
36	Jackson	<u>34</u>
37	Macon	<u>34</u>
38	Swain	3
39		

**FUNDING FOR DRUG TREATMENT COURTS; GRANT CRITERIA AND EFFECTIVENESS MEASURES**

**SECTION 15.3.(a)** The Administrative Office of the Courts may award grants to county governments for the operation of Drug Treatment Courts under Article 62 of Chapter 7A of the General Statutes, North Carolina Drug Treatment Court Act. Grant funds shall be utilized to fund Drug Treatment Court staff positions currently paid for by local government entities or to restore positions previously terminated for active Drug Treatment Courts, up to the number of positions in the biennial budget. During the 2013-2015 fiscal biennium, positions will be transferred to state employment on a county by county basis, as determined by the Director of the Administrative Office of the Courts. Funding for treatment services shall be obtained through the Department of Health and Human Services through local management entities (LME). Grants may only be made to Drug Treatment Courts that provide direct services

1 to convicted and sentenced adult offenders and to adults who have lost custody or are at risk of  
2 losing custody of their children through the substantiation and adjudication of abuse, neglect  
3 and/or dependency.

4 **SECTION 15.3.(b)** The Administrative Office of the Courts shall provide direction  
5 and oversight to the drug treatment court programs in order to ensure that each district with a  
6 drug treatment court program is utilizing best practices and is working effectively and  
7 efficiently. The Administrative Office of the Courts shall report on the effectiveness of the  
8 programs based on quantitative measures, as well as its progress to transfer positions to state  
9 employment, to the Chairs of the House and Senate Appropriations Subcommittees on Justice  
10 and Public Safety by March 1, 2014.

#### 11 12 **COLLECTION OF WORTHLESS CHECK FUNDS**

13 **SECTION 15.4.** Notwithstanding the provisions of G.S. 7A-308(c), the Judicial  
14 Department may use any balance remaining in the Collection of Worthless Checks Fund on  
15 June 30, 2013, and on June 30, 2014, for the purchase or repair of office or information  
16 technology equipment during the 2013-2014 and 2014-2015 fiscal years respectively. Prior to  
17 using any funds under this section, the Judicial Department shall report to the Joint Legislative  
18 Commission on Governmental Operations, the Chairs of the House of Representatives and  
19 Senate Appropriations Subcommittees on Justice and Public Safety, and the Office of State  
20 Budget and Management on the equipment to be purchased or repaired and the reasons for the  
21 purchases.

#### 22 23 **GRANT FUNDS**

24 **SECTION 15.5.** Notwithstanding G.S. 143C-6-9, the Administrative Office of the  
25 Courts may use up to one million dollars (\$1,000,000) from funds available to the Department  
26 during the 2013-2015 biennium to provide the State match needed in order to receive grant  
27 funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the  
28 House of Representatives and Senate Appropriations Subcommittees on Justice and Public  
29 Safety and to the Joint Legislative Commission on Governmental Operations on the grants to  
30 be matched using these funds.

#### 31 32 **ADMINISTRATION OF GRANT/OTHER FUNDS FOR CONFERENCES**

33 **SECTION 15.6.** Any grants or other funding, including the National Mortgage  
34 Settlement, currently managed or benefitting the Conference of District Attorneys or  
35 Conference of Clerks of Superior Court shall be administered by the Administrative Office of  
36 the Courts.

#### 37 38 **PART XVI. DEPARTMENT OF JUSTICE**

#### 39 40 **TRANSFER OF LEGAL POSITIONS AND LEGAL SUPPORT POSITIONS TO THE** 41 **AGENCIES THEY SERVE**

42 **SECTION 16.1.** Effective October 1, 2013, a statewide reserve is created to be  
43 managed by the Office of State Budget and Management for the funds and positions to support  
44 the transfer of legal positions and legal support positions from the Department of Justice, Legal  
45 Services Division, to various State departments and institutions. The equipment, supplies,  
46 records, and other property to support these positions are also transferred from the Department  
47 of Justice to the destination agencies.

#### 48 49 **PART XVII. DEPARTMENT OF PUBLIC SAFETY**

50

**USE OF SEIZED AND FORFEITED PROPERTY TRANSFERRED TO STATE LAW ENFORCEMENT AGENCIES BY THE FEDERAL GOVERNMENT**

**SECTION 17.1.(a)** Assets transferred to the Department of Justice and the Department of Public Safety during the 2013-2015 fiscal biennium pursuant to applicable federal law shall be credited to the budgets of the respective departments and shall result in an increase of law enforcement resources for those departments. The Department of Justice and the Department of Public Safety shall report to the Joint Legislative Commission on Governmental Operations upon receipt of the assets and, before using the assets, shall report on the intended use of the assets and the departmental priorities on which the assets may be expended.

**SECTION 17.1.(b)** The General Assembly finds that the use of assets transferred pursuant to federal law for new personnel positions, new projects, acquisition of real property, repair of buildings where the repair includes structural change, and construction of or additions to buildings may result in additional expenses for the State in future fiscal periods. Therefore, the Department of Justice and the Department of Public Safety are prohibited from using these assets for such purposes without the prior approval of the General Assembly.

**SECTION 17.1.(c)** Nothing in this section prohibits North Carolina law enforcement agencies from receiving funds from the United States Department of Justice, the United States Department of the Treasury, and the United States Department of Health and Human Services.

**GRANT MATCHING FUNDS**

**SECTION 17.2.** Notwithstanding the provisions of G.S. 143C-6-9, the Department of Public Safety may use up to the sum of one million two hundred thousand dollars (\$1,200,000) during the 2013-2014 fiscal year and up to the sum of one million two hundred thousand dollars (\$1,200,000) during the 2014-2015 fiscal year from funds available to the Department to provide the State match needed in order to receive grant funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

**USE OF CLOSED PRISON FACILITIES**

**SECTION 17.3.** In conjunction with the closing of prison facilities, the Department of Public Safety shall consult with the county or municipality in which the unit is located, with the elected State and local officials, and with State and federal agencies about the possibility of converting that unit to other use. The Department may also consult with any private for-profit or nonprofit firm about the possibility of converting the unit to other use. In developing a proposal for future use of each unit, the Department shall give priority to converting the unit to other criminal justice use. Consistent with existing law and the future needs of the Division of Adult Correction, the State may provide for the transfer or the lease of any of these units to counties, municipalities, State agencies, federal agencies, or private firms wishing to convert them to other use. The Department of Public Safety may also consider converting some of the units recommended for closing from one security custody level to another, where that conversion would be cost-effective. A prison unit under lease to a county pursuant to the provisions of this section for use as a jail is exempt for the period of the lease from any of the minimum standards adopted by the Secretary of Health and Human Services pursuant to G.S. 153A-221 for the housing of adult prisoners that would subject the unit to greater standards than those required of a unit of the State prison system.

1 **REIMBURSE COUNTIES FOR HOUSING AND EXTRAORDINARY MEDICAL**  
2 **COSTS FOR INMATES, PAROLEES, AND POST-RELEASE SUPERVISEES**  
3 **AWAITING TRANSFER TO STATE PRISON SYSTEM**

4 **SECTION 17.4.** Notwithstanding G.S. 143C-6-9, the Department of Public Safety  
5 may use funds available to the Department for the 2013-2015 fiscal biennium to pay the sum of  
6 forty dollars (\$40.00) per day as reimbursement to counties for the cost of housing convicted  
7 inmates, parolees, and post-release supervisees awaiting transfer to the State prison system, as  
8 provided in G.S. 148-29. The Department shall report quarterly to the Joint Legislative  
9 Commission on Governmental Operations, the Joint Legislative Public Safety Oversight  
10 Committee, the Chairs of the House of Representatives and Senate Appropriations Committees,  
11 and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on  
12 Justice and Public Safety on the expenditure of funds to reimburse counties for prisoners  
13 awaiting transfer and on its progress in reducing the jail backlog.  
14

15 **CENTER FOR COMMUNITY TRANSITIONS/CONTRACT AND REPORT**

16 **SECTION 17.5.** The Department of Public Safety may continue to contract with  
17 The Center for Community Transitions, Inc., a nonprofit corporation, for the purchase of prison  
18 beds for minimum security female inmates during the 2013-2015 fiscal biennium. The Center  
19 for Community Transitions, Inc., shall report by February 1 of each year to the Joint Legislative  
20 Commission on Governmental Operations on the annual cost per inmate and the average daily  
21 inmate population compared to bed capacity using the same methodology as that used by the  
22 Department of Public Safety.  
23

24 **INMATE MEDICAL COST CONTAINMENT**

25 **SECTION 17.6.(a)** The Department of Correction shall reimburse those providers  
26 and facilities providing approved inmate medical services outside the correctional facility the  
27 lesser amount of either a rate of seventy percent (70%) of the provider's then-current prevailing  
28 charge or two times the then-current Medicaid rate for any given service. The Department shall  
29 have the right to audit any given provider to determine the actual prevailing charge to ensure  
30 compliance with this provision.

31 This section does apply to vendors providing services that are not billed on a fee-for-service  
32 basis, such as temporary staffing. Nothing in this section shall preclude the Department from  
33 contracting with a provider for services at rates that provide greater documentable cost  
34 avoidance for the State than do the rates contained in this section or at rates that are less  
35 favorable to the State but that will ensure the continued access to care.

36 **SECTION 17.6.(b)** The Department of Public Safety shall make every effort to  
37 contain inmate medical costs by making use of its own hospital and health care facilities to  
38 provide health care services to inmates. To the extent that the Department of Public Safety must  
39 utilize other facilities and services to provide health care services to inmates, the Department  
40 shall make reasonable efforts to make use of hospitals or other providers with which it has a  
41 contract or, if none is reasonably available, hospitals with available capacity or other health  
42 care facilities in a region to accomplish that goal. The Department shall make reasonable  
43 efforts to equitably distribute inmates among all hospitals or other appropriate health care  
44 facilities.  
45

46 **STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS**

47 **SECTION 17.7.** Funds appropriated in this act to the Department of Public Safety,  
48 Division of Juvenile Justice for the 2013-2015 fiscal biennium may be used as matching funds  
49 for the Juvenile Accountability Incentive Block Grants. If North Carolina receives Juvenile  
50 Accountability Incentive Block Grants or a notice of funds to be awarded, the Office of State  
51 Budget and Management and the Governor's Crime Commission shall consult with the

1 Department of Public Safety, Division of Juvenile Justice, regarding the criteria for awarding  
2 federal funds. The Office of State Budget and Management, the Governor's Crime  
3 Commission, and the Department of Juvenile Justice and Delinquency Prevention shall report  
4 to the Appropriations Committees of the Senate and House of Representatives and the Joint  
5 Legislative Commission on Governmental Operations prior to allocation of the federal funds.  
6 The report shall identify the amount of funds to be received for the 2013-14 fiscal year, the  
7 amount of funds anticipated for the 2014-15 fiscal year, and the allocation of funds by program  
8 and purpose.

#### 9 10 **VIPER FUNDING**

11 **SECTION 17.8.(a)** Of the funds appropriated to the Department of Public Safety  
12 for the 2013-15 biennium, up to ten million dollars (\$10,000,000) may be used in each fiscal  
13 year by the Department for contractual services to continue the build-out and expansion of the  
14 State's Voice Interoperability Plan for Emergency Responders (VIPER). Priority shall be given  
15 to contractual services that will increase access to the system by local emergency response  
16 agencies through an upgrade to digital technology and for continuing construction of the  
17 necessary infrastructure to provide statewide coverage.

18 **SECTION 17.8.(b)** The Department shall not expend any funds as authorized in  
19 Section a, without the prior approval of the Director of the Budget

20 **SECTION 17.8.(c)** The Department of Public Safety shall report to the Joint  
21 Legislative Committee on Information Technology and the Joint Legislative Oversight  
22 Committee on Justice and Public Safety on a quarterly basis on the progress of the State's  
23 VIPER system.

#### 24 25 **PART XVIII. DEPARTMENT OF ADMINISTRATION**

##### 26 27 **USE OF E-COMMERCE FUNDS FOR PURCHASE AND CONTRACT OPERATIONS**

28 **SECTION 18.1.** Notwithstanding the provisions of G.S. 66-58-12(c), the sum of  
29 one million two hundred thousand dollars (\$1,200,000) shall be transferred from the  
30 E-Commerce Fund in the Department of Administration Budget Code 24100, Fund 2514, to be  
31 used for each year of the 2013-2015 biennium, on a non-recurring basis, to pay operating  
32 expenses of the Division of Purchase and Contract.

##### 33 34 **OFFICE OF JUSTICE FOR STERILIZATION VICTIMS**

35 **SECTION 18.2.** Funds in the amount of one hundred twenty-four thousand five  
36 hundred ninety-two dollars (\$124,592) are appropriated in this act to the Department of  
37 Administration for the 2013-2014 fiscal year to continue the operation of the Office of Justice  
38 for Sterilization Victims through June 30, 2014. The Office shall use these funds to verify the  
39 victims who were sterilized by the State Eugenics Board, safeguard the victims' records, and  
40 administer the State compensation program.

##### 41 42 **STERILIZATION VICTIMS COMPENSATION**

43 **SECTION 18.3.** Funds in the amount of ten million dollars (\$10,000,000) are  
44 appropriated in this act to the Department of Administration for the 2013-2014 fiscal year to  
45 compensate sterilization victims in accordance with the State compensation program enacted  
46 by the General Assembly.

##### 47 48 **COMPREHENSIVE REVIEW OF COMPENSATION SYSTEM**

49 **SECTION 18.4.** In order to create a contemporary performance-based,  
50 market-driven compensation system for state government, the Office of State Personnel will  
51 conduct a review of current compensation plans, laws and policies and make recommendations

1 for implementing an effective compensation system based upon best practices in human  
2 resources. The study will include a labor market analysis of pay plans, benefits, and  
3 classification systems in the public and private sectors, as well as address issues such as  
4 performance evaluation, career status and longevity pay. The study will also evaluate and  
5 recommend ways to modernize and automate classification and compensation processes. Funds  
6 up to one million dollars (\$1,000,000) from the Salary Adjustment Reserve will support this  
7 study.

## 9 **PART XIX. DEPARTMENT OF CULTURAL RESOURCES**

### 11 **ALLOW FOR AN EXEMPTION FROM THE RULE-MAKING PROCESS FOR 12 ESTABLISHING AND CHANGING ADMISSION AND ACTIVITY FEES AT 13 STATE HISTORIC SITES, MUSEUMS, AND TRYON PALACE HISTORIC SITES 14 AND GARDENS.**

15 **SECTION 19.1.** G.S. 121-7.3 reads as rewritten:

#### 16 **"§ 121-7.3. Admission fees.**

17 The Department of Cultural Resources may charge a reasonable admission fee to any  
18 historic site and museum administered by the Department. Admission fees collected under this  
19 section are receipts of the Department and shall be deposited in a nonreverting account. The  
20 Department shall retain unbudgeted receipts at the end of each fiscal year, beginning June 30,  
21 2004, and shall deposit these receipts into the account. Funds in the account shall be used to  
22 support a portion of each historic site and museum's operation. The Secretary may adopt rules  
23 necessary to carry out the provisions of this section. Chapter 150B of the General Statutes shall  
24 not apply to the adoption, amending, or repeal of rules for admission fees or related activity  
25 fees at historic sites and museums. The Department shall submit a report to the Joint  
26 Legislative Commission on Governmental Operations on the amount and purpose of a fee  
27 change within 30 days following its effective date. ~~The Department shall provide a quarterly~~  
28 ~~report to the Joint Legislative Commission on Governmental Operations as to the Department's~~  
29 ~~or museums' anticipated use of funds or expenditures of funds pursuant to this section."~~

30 **SECTION 19.2.** G.S. 143B-71 reads as rewritten:

#### 31 **"§ 143B-71. Tryon Palace Commission – creation, powers and duties.**

32 There is hereby created the Tryon Palace Commission of the Department of Cultural  
33 Resources with the power and duty to adopt, amend and rescind rules and regulations  
34 concerning the restoration and maintenance of the Tryon Palace complex, and such other  
35 powers and duties as provided in Article 2 of Chapter 121 of the General Statutes of North  
36 Carolina. Chapter 150B of the General Statutes shall not apply to the adoption, amending, or  
37 repeal of rules for admission fees or related activity fees at Tryon Palace Historic Sites and  
38 Gardens. The Commission shall submit a report to the Joint Legislative Commission on  
39 Governmental Operations on the amount and purpose of a fee change within 30 days following  
40 its effective date."

### 42 **ALLOW MUSEUMS AND HISTORIC SITES TO GENERATE REVENUE FROM 43 VENDOR SERVICES**

44 **SECTION 19.3.** G.S. 111-47.1 reads as rewritten:

#### 45 **"§ 111-47.1. Food service at North Carolina aquariums and Museums and State Historic 46 Sites Operated by the North Carolina Department of Cultural Resources.**

47 (a) Notwithstanding Article 3 of Chapter 111 of the General Statutes, the North  
48 Carolina Aquariums may operate or contract for the operation of food or vending services at  
49 the North Carolina Aquariums. Notwithstanding G.S. 111-43, the net proceeds of revenue  
50 generated by food and vending services that are provided at the North Carolina Aquariums and

1 are operated by or whose operation is contracted for by the Division of North Carolina  
2 Aquariums shall be credited to the North Carolina Aquariums Fund.

3 (b) ~~This section shall not be construed to alter any contract for food or vending services~~  
4 ~~at the North Carolina Aquariums that is in force at the time this section becomes law [effective~~  
5 ~~July 1, 1999]. (1999-237, s. 15.17(a), (b)).~~ Notwithstanding Article 3 of Chapter 111 of the  
6 General Statutes, the museums and historic sites operated by the North Carolina Department of  
7 Cultural Resources may operate or contract for the operation of food or vending services at  
8 museums and historic sites operated by the North Carolina Department of Cultural Resources.  
9 Notwithstanding G.S. 111-43, the net proceeds of revenue generated by food and vending  
10 services that are provided at the museums and historic sites operated by the North Carolina  
11 Department of Cultural Resources and are operated by or whose operation is contracted for by  
12 the Department of Cultural Resources shall be credited to the North Carolina Department of  
13 Cultural Resources Account where the funds were generated and be used for the further  
14 operation of that museum or historic site.

15 (c) This section shall not be construed to alter any contract for food or vending services  
16 at the North Carolina Aquariums or historic sites and museums that is in force at the time this  
17 section becomes law [effective July 1, 1999]."

18  
19 **ALLOW EXEMPTION FOR THE HISTORIC SITES AND MUSEUMS OWNED BY**  
20 **THE DEPARTMENT OF CULTURAL RESOURCES FROM THE PROHIBITION**  
21 **OF THE SALE OF MERCHANDISE OR SERVICES BY GOVERNMENTAL**  
22 **UNITS**

23 **SECTION 19.4.** G.S. 66-58 reads as rewritten:

24 **"§ 66-58. Sale of merchandise or services by governmental units**

25 (a) Except as may be provided in this section, it shall be unlawful for any unit,  
26 department or agency of the State government, or any division or subdivision of the unit,  
27 department or agency, or any individual employee or employees of the unit, department or  
28 agency in his, or her, or their capacity as employee or employees thereof, to engage directly or  
29 indirectly in the sale of goods, wares or merchandise in competition with citizens of the State,  
30 or to engage in the operation of restaurants, cafeterias or other eating places in any building  
31 owned by or leased in the name of the State, or to maintain service establishments for the  
32 rendering of services to the public ordinarily and customarily rendered by private enterprises,  
33 or to provide transportation services, or to contract with any person, firm or corporation for the  
34 operation or rendering of the businesses or services on behalf of the unit, department or agency,  
35 or to purchase for or sell to any person, firm or corporation any article of merchandise in  
36 competition with private enterprise. The leasing or subleasing of space in any building owned,  
37 leased or operated by any unit, department or agency or division or subdivision thereof of the  
38 State for the purpose of operating or rendering of any of the businesses or services herein  
39 referred to is hereby prohibited.

40 (b) The provisions of subsection (a) of this section shall not apply to:

41 (1) Counties and municipalities.

42 (2) The Department of Health and Human Services or the Department of  
43 Agriculture and Consumer Services for the sale of serums, vaccines, and  
44 other like products.

45 (3) The Department of Administration, except that the agency shall not exceed  
46 the authority granted in the act creating the agency.

47 (4) The State hospitals for the mentally ill.

48 (5) The Department of Health and Human Services.

49 (6) The North Carolina School for the Blind at Raleigh.

50 (6a) The Division of Juvenile Justice of the Department of Public Safety.

51 (7) The North Carolina Schools for the Deaf.

1 (8) The University of North Carolina with regard to:

2 ...

3 (8a) The University of North Carolina with regard to the operation of gift shops,  
4 snack bars, and food service facilities physically connected to any of The  
5 University of North Carolina's public exhibition spaces, including the North  
6 Carolina Arboretum, provided that the resulting profits are used to support  
7 the operation of the public exhibition space.

8 (9) The Department of Environment and Natural Resources, except that the  
9 Department shall not construct, maintain, operate or lease a hotel or tourist  
10 inn in any park over which it has jurisdiction. The North Carolina Wildlife  
11 Resources Commission may sell wildlife memorabilia as a service to  
12 members of the public interested in wildlife conservation.

13 (9a) The North Carolina Forest Service.

14 (9b) The Department of Cultural Resources for the sale of books, crafts, gifts, and  
15 other tourism-related items at historic sites and museums owned by the  
16 Department.

17 ...."

## 18

### 19 PART XX. STATE BOARD OF ELECTIONS

#### 20

#### 21 REPEAL NORTH CAROLINA POLITICAL PARTIES FINANCING FUND

22 SECTION 20.1. Article 22B of Chapter 163 of the General Statutes is repealed.  
23 The fund balances remaining at year end June 30, 2013, in budget code 68026 Fund 6200 and  
24 budget code 68027 Fund 6300, estimated at one million sixty-four thousand five hundred  
25 eighty-two dollars (\$1,064,582), shall be transferred to the General Fund.

#### 26

#### 27 REPEAL VOTER OWNED ELECTION ACT

28 SECTION 20.2. Article 22J of Chapter 163 of the General Statutes is repealed.  
29 The fund balance remaining at year end June 30, 2013 in budget code 68029 Fund 6500,  
30 estimated at thirteen cents (\$0.13), shall be transferred to the General Fund.

#### 31

#### 32 ELIMINATE \$50 SURCHARGE FOR ACTIVE MEMBERS OF THE NORTH

#### 33 CAROLINA STATE BAR; TERMINATE NORTH CAROLINA PUBLIC

#### 34 CAMPAIGN FUND UPON EXHAUSTION OF ANY FUNDS REMAINING IN IT;

#### 35 POST JUDICIAL VOTER GUIDE ON STATE BOARD OF ELECTIONS WEBSITE

#### 36 IN AN ELECTRONIC FORMAT

37 SECTION 20.3.(a) The fund balance remaining at year end June 30, 2013, in  
38 budget code 68025 Fund 6101, estimated at eight million nine hundred thirty-five thousand  
39 nine hundred forty dollars (\$8,935,940), shall be transferred to the General Fund, except for  
40 four million eight hundred ten thousand seven hundred sixty-nine dollars (\$4,810,769)  
41 representing those funds collected under the provisions of G.S. 163-278.63(b)(7) and  
42 G.S. 84-34. Staff and operating expenses previously supported from these funds shall be  
43 continued from the appropriations to the State Board of Elections budget code 18025.

44 SECTION 20.3.(b) G.S. 84-34 reads as rewritten:

#### 45 "§ 84-34. Membership fees and list of members.

46 Every active member of the North Carolina State Bar shall, prior to the first day of July of  
47 each year, pay to the secretary-treasurer an annual membership fee in an amount determined by  
48 the Council but not to exceed three hundred dollars (\$300.00), ~~plus a surcharge of fifty dollars~~  
49 ~~(\$50.00 for the implementation of Article 22D of Chapter 163 of the General Statutes,~~ and  
50 every member shall notify the secretary-treasurer of the member's correct mailing address. Any  
51 member who fails to pay the required dues by the last day of June of each year shall be subject



1 to a late fee in an amount determined by the Council but not to exceed thirty dollars (\$30.00).  
2 All dues for prior years shall be as were set forth in the General Statutes then in effect. The  
3 membership fee shall be regarded as a service charge for the maintenance of the several  
4 services authorized by this Article, and shall be in addition to all fees required in connection  
5 with admissions to practice, and in addition to all license taxes required by law. The fee shall  
6 not be prorated: Provided, that no fee shall be required of an attorney licensed after this Article  
7 shall have gone into effect until the first day of January of the calendar year following that in  
8 which the attorney was licensed; but this proviso shall not apply to attorneys from other states  
9 admitted on certificate. The fees shall be disbursed by the secretary-treasurer on the order of the  
10 Council. ~~The fifty dollar (\$50.00) surcharge shall be sent on a monthly schedule to the State~~  
11 ~~Board of Elections.~~ The secretary-treasurer shall annually, at a time and in a law magazine or  
12 daily newspaper to be prescribed by the Council, publish an account of the financial  
13 transactions of the Council in a form to be prescribed by it. The secretary-treasurer shall  
14 compile and keep currently correct from the names and mailing addresses forwarded to the  
15 secretary-treasurer and from any other available sources of information a list of members of the  
16 North Carolina State Bar and furnish to the clerk of the superior court in each county, not later  
17 than the first day of October in each year, a list showing the name and address of each attorney  
18 for that county who has not complied with the provisions of this Article. The name of each of  
19 the active members who are in arrears in the payment of membership fees shall be furnished to  
20 the presiding judge at the next term of the superior court after the first day of October of each  
21 year, by the clerk of the superior court of each county wherein the member or members reside,  
22 and the court shall thereupon take action that is necessary and proper. The names and addresses  
23 of attorneys so certified shall be kept available to the public. The Secretary of Revenue is  
24 hereby directed to supply the secretary-treasurer, from records of license tax payments, with  
25 any information for which the secretary-treasurer may call in order to enable the  
26 secretary-treasurer to comply with this requirement.

27 The list submitted to several clerks of the superior court shall also be submitted to the  
28 Council at its October meeting of each year and it shall take the action thereon that is necessary  
29 and proper."

30 **SECTION 20.3.(c)** G.S. 163-278.63 reads as rewritten:

31 "**§ 163-278.63. North Carolina Public Campaign Fund established; sources of funding.**

32 (a) Establishment of Fund. – The North Carolina Public Campaign Fund is established  
33 to finance the election campaigns of certified candidates for office and to pay administrative  
34 and enforcement costs of the Board related to this Article. The Fund is a special, dedicated,  
35 nonlapsing, nonreverting fund which shall terminate upon the exhaustion of any funds  
36 remaining in it. There shall be no further funding of this Fund from any source, including  
37 voluntary donations. All expenses of administering this Article, including ~~production and~~  
38 ~~distribution of the Voter Guide required by G.S. 163-278.69 and~~ personnel and other costs  
39 incurred by the Board, including public education about the Fund, shall be paid from the Fund  
40 and not from the General Fund. Any interest generated by the Fund is credited to the Fund. The  
41 Board shall administer the Fund.

42 (b) ~~Sources of Funding. Money received from all the following sources must be~~  
43 ~~deposited in the Fund:~~

- 44 (1) ~~Money from the North Carolina Candidates Financing Fund.~~
- 45 (2) ~~Designations made to the Public Campaign Fund by individual taxpayers~~  
46 ~~pursuant to G.S. 105.159.2.~~
- 47 (3) ~~Repealed by Session Laws 2005-276, s.23.A.1(c), effective January 1, 2006.~~
- 48 (4) ~~Public Campaign Fund revenues distributed for an election that remain~~  
49 ~~unspent or uncommitted at the time the recipient is no longer a certified~~  
50 ~~candidate in the election.~~

1           (5) Money ordered returned to the Public Campaign Fund in accordance with  
2           G.S. 163-278.70.  
3           (6) ~~Voluntary donations made directly to the Public Campaign Fund.~~  
4           ~~Corporation, other business entities, labor unions, and professional~~  
5           ~~associations may make donations to the Fund.~~  
6           (7) Money collected from the fifty dollar (\$50.00) surcharge on attorney  
7           membership fees in G.S. 84-34.  
8           (c) ~~Determination of Fund Amount. By October 1, 2003, and every two years~~  
9           ~~thereafter, the Board shall prepare and provide to the Joint Legislative Commission on~~  
10           ~~Governmental Operations of the General Assembly a report documenting, evaluating, and~~  
11           ~~making recommendations relating to the administration, implementation and enforcement of~~  
12           ~~this Article. In its report, the Board shall set out the funds received to date and the expected~~  
13           ~~needs of the Fund for the next election."~~

14           **SECTION 20.3.(d)** G.S. 163-278.69 reads as rewritten:

15           **"§ 163-278.69. Voter education.**

16           (a) Judicial Voter Guide. – The Board shall ~~publish~~ produce a Judicial Voter Guide that  
17           explains the functions of the appellate courts and the laws concerning the election of appellate  
18           judges, ~~the purpose and function of the Public Campaign Fund, and the laws concerning voter~~  
19           ~~registration.~~ The Board shall post the Judicial Voter Guide on its website in an electronic  
20           format and shall also make it available electronically to the public by other means it deems  
21           appropriate. ~~distribute the Guide to as many voting age individuals in the State as practical,~~  
22           ~~through a mailing to all residences or other means it deems effective. The distribution shall~~  
23           ~~occur no more than 28 days nor fewer than seven days before the one stop voting period~~  
24           ~~provided in G.S. 163-227.2 for the primary and no more than 28 days nor fewer than seven~~  
25           ~~days before the one stop voting period provided in G.S. 163-227.2 for the general election.~~

26           (b) Candidate Information. – The Judicial Voter Guide shall include information  
27           concerning all candidates for the Supreme Court and the Court of Appeals, as provided by  
28           those candidates according to a format provided to the candidates by the Board. The Board  
29           shall request information for the Guide from each candidate according to the following format:

30           (1) Place of residence.

31           (2) Education.

32           (3) Occupation.

33           (4) Employer.

34           (5) Date admitted to the bar.

35           (6) Legal/judicial experience.

36           (7) Candidate statement. Concerning that statement, the Board shall send to the  
37           candidates instructions as follows: "Your statement may include information  
38           such as your qualifications, your endorsements, your ratings, why you are  
39           seeking judicial office, why you would make a good judge, what  
40           distinguishes you from your opponent(s), your acceptance of spending and  
41           fund-raising limits to qualify to receive funds from the Public Campaign  
42           Fund, and any other information relevant to your candidacy. The State Board  
43           of Elections will reject any portion of any statement which it determines  
44           contains obscene, profane, or defamatory language. The candidate shall have  
45           three days to resubmit the candidate statement if the Board rejects a portion  
46           of the statement.

47           The entire entry for a candidate shall be limited to 250 words.

48           (c) Disclaimer. – The Judicial Voter Guide shall contain the following statement:  
49           "Statements by candidates do not express or reflect the opinions of the State Board of  
50           Elections."

1           **SECTION 20.3.(e)** Article 22D of Chapter 163 of the General Statutes is amended  
2 by adding a new section to read:

3 **"§ 163-278.71 Repeal of the North Carolina Public Campaign Fund.**

4 Upon the exhaustion of any remaining funds in the North Carolina Public Campaign Fund,  
5 Article 22D of Chapter 163 of the General Statutes shall be repealed, with the exception of  
6 G.S. 163-278.69."  
7

8 **APPROPRIATE MAINTENANCE OF EFFORT FUNDS TO ACCESS HAVA TITLE II**  
9 **FUNDS**

10           **SECTION 20.4.** The State Board of Elections shall expend federal Help America  
11 Vote Funds (HAVA) Title II Funds for the 2013-2015 fiscal years with appropriation of the  
12 State's required Maintenance of Effort funds in the amount of three million four hundred  
13 fifty-seven thousand five hundred eighty-five dollars (\$3,457,585) for fiscal year 2013-2014  
14 and in the amount of three million four hundred fifty-seven thousand five hundred eighty-five  
15 dollars (\$3,457,585) for fiscal year 2014-2015.  
16

17 **PART XXI. OFFICE OF STATE BUDGET AND MANAGEMENT**

18  
19 **STUDY COSTS OF ALL COMMUNITY COLLEGE ACADEMIC PROGRAMS**

20           **SECTION 21.1.** There is appropriated to the Office of State Budget and  
21 Management the sum of fifty thousand dollars (\$50,000) for fiscal year 2013-2014. The Office  
22 of State Budget and Management, in consultation with the Community Colleges System Office,  
23 shall conduct a study to determine the costs per enrollment of all academic programs within the  
24 North Carolina Community College System. This study shall include: (i) identifying all  
25 relevant instructional costs and enrollment numbers associated with the curriculum, continuing  
26 education, and basic skills programs at each community college; and (ii) determining the cost  
27 per enrollment for each program by community college and systemwide. The results of this  
28 study shall be reported no later than March 1, 2014, to the Joint Legislative Education  
29 Oversight Committee.  
30

31 **PART XXII. OFFICE OF STATE CONTROLLER**

32  
33 **OVERPAYMENTS AUDIT**

34           **SECTION 22.1.(a)** During the 2013-2015 biennium, receipts generated by the  
35 collection of inadvertent overpayments by State agencies to vendors as a result of pricing  
36 errors, neglected rebates and discounts, miscalculated freight charges, unclaimed refunds,  
37 erroneously paid excise taxes, and related errors as required by G.S. 147-86.22(c) are to be  
38 deposited in Special Reserve Account 24172.

39           **SECTION 22.1.(b)** For each year of the 2013-2015 biennium, five hundred  
40 thousand dollars (\$500,000) of the funds transferred from Special Reserve Account 24172 shall  
41 be used by the Office of the State Controller for data processing, debt collection, or  
42 e-commerce costs.

43           **SECTION 22.1.(c)** All funds available in Special Reserve Account 24172 on July  
44 1 of each year of the 2013-2015 biennium are transferred to the General Fund on that date.

45           **SECTION 22.1.(d)** Any unobligated funds in Special Reserve Account 24172 that  
46 are realized above the allowance in subsection (b) of this section are subject to appropriation by  
47 the General Assembly.

48           **SECTION 22.1.(e)** The State Controller shall report quarterly to the Joint  
49 Legislative Commission on Governmental Operations and the Fiscal Research Division on the  
50 revenue deposited into Special Reserve Account 24172 and the disbursement of that revenue.  
51

**PART XXIII. DEPARTMENT OF TRANSPORTATION****REPLACEMENT OF THE STATE TITLING AND REGISTRATION SYSTEM (STARS) AND THE STATE AUTOMATED DRIVER LICENSE SYSTEM (SADLS)**

**SECTION 23.1** The Department of Transportation shall begin the implementation phase to replace the State Titling and Registration System (STARS), the State Automated Driver License System (SADLS) and the Liability Insurance Tracking System (LITES). For fiscal year 2013-14 there is appropriated \$8,832,000 and for fiscal year 2014-15 \$13,798,400 from the DMV Inspection Program Account for this purpose. Funds will be used for the implementation phase, to acquire software, hardware and services necessary to move these systems to a more state of the art technical environment and to improve functionality of the systems and the customer service aspects of the programs.

**TRANSPORTATION ECONOMIC DEVELOPMENT FUND**

**SECTION 23.2** Of the funds appropriated in this act to the Department of Transportation in fiscal year 2013-14, \$3,569,535 and \$4,036,171 in fiscal year 2014-15 shall be allocated to the newly created Transportation Economic Development Fund. This program will provide funding to promote economic factors for job growth by facilitating increased business activity for transportation efforts throughout the State. The funds will be used for prioritized highway improvements and infrastructure that promotes safety and mobility initiatives with an emphasis on job creation. This is a centrally administered program under the Secretary of Transportation.

**REVISE G.S. 136-17.2A. DISTRIBUTION FORMULA FOR TRANSPORTATION FUNDS**

**SECTION 23.3** The Department of Transportation shall develop and implement a revised formula to distribute state and federal funds expended under the State Transportation Improvement Program (STIP). The Department shall take the following into consideration when developing the new formula:

- (1) A tiered funding approach aligned with the Department's strategic prioritization process that effectively accelerates infrastructure improvements.
- (2) Utilization of common methods and parameters to prioritize and evaluate investments.
- (3) Ensure state, regional and local priorities are being met.
- (4) Take into account factors that stimulate competition and job creation.

**RESTORE FISCAL YEAR 2014-15 FUNDING FOR HIGH POINT FURNITURE MARKET**

**SECTION 23.4** Notwithstanding G.S. 136-44.2(f), of the funds appropriated to the Department of Transportation, five hundred thousand dollars (\$500,000) of SFY 2013-14 ending credit balance funds shall be used for the SFY 2014-15 High Point Furniture Market.

**PART XXIV. SALARIES AND BENEFITS****GOVERNOR AND COUNCIL OF STATE**

**SECTION 24.1.(a)** Effective for the 2013-2015 fiscal biennium, the salary of the Governor set by G.S. 147-11(a) shall be in the amount of one hundred forty-two thousand six hundred seventy-eight dollars (\$142,678) annually, payable monthly.

1           **SECTION 24.1.(b)** Effective for the 2013-2015 fiscal biennium, the annual  
2 salaries for the members of the Council of State, payable monthly, for the 2013-2015 fiscal  
3 biennium are set as follows:

	Annual Salary
4 Council of State	
5 Lieutenant Governor	\$125,923
6 Attorney General	125,923
7 Secretary of State	125,923
8 State Treasurer	125,923
9 State Auditor	125,923
10 Superintendent of Public Instruction	125,923
11 Agriculture Commissioner	125,923
12 Insurance Commissioner	125,923
13 Labor Commissioner	125,923

14  
15  
16 **NONELECTED DEPARTMENT HEADS/SALARY INCREASES**

17           **SECTION 24.2.** Effective for the 2013-2015 fiscal biennium, the maximum annual  
18 salaries for the nonelected heads of the principal State departments are set by G.S. 143B-9.

19  
20 **CERTAIN EXECUTIVE BRANCH OFFICIALS**

21           **SECTION 24.3.** Effective for the 2013-2015 fiscal biennium, the annual salaries,  
22 payable monthly, for the following executive branch officials are set as follows:

	Annual Salary
23 Executive Branch Officials	
24 Chairman, Alcoholic Beverage Control Commission	\$111,977
25 State Controller	156,711
26 Commissioner of Banks	125,923
27 Chair, Board of Review, Division of Employment Security	123,478
28 Members, Board of Review, Division of Employment Security	121,944
29 Chairman, Parole Commission	102,247
30 Full-time Members of the Parole Commission	94,399
31 Chairman, Utilities Commission	140,237
32 Members of the Utilities Commission	125,923
33 Executive Director, North Carolina 34 Agricultural Finance Authority	108,994

35  
36  
37 **JUDICIAL BRANCH OFFICIALS/SALARY INCREASES**

38           **SECTION 24.4.(a)** Effective for the 2013-2015 fiscal biennium, the annual  
39 salaries, payable monthly, for specified judicial branch officials are set as follows:

	Annual Salary
40 Judicial Branch Officials	
41 Chief Justice, Supreme Court	\$144,049
42 Associate Justice, Supreme Court	140,285
43 Chief Judge, Court of Appeals	138,049
44 Judge, Court of Appeals	134,440
45 Judge, Senior Regular Resident Superior Court	130,787
46 Judge, Superior Court	127,134
47 Chief Judge, District Court	115,444
48 Judge, District Court	111,791
49 District Attorney	121,944
50 Administrative Officer of the Courts	129,542

1	Assistant Administrative Officer of the Courts	118,324
2	Public Defender	121,944
3	Director of Indigent Defense Services	125,743

4       **SECTION 24.4.(b)** Effective for the 2013-2015 fiscal biennium, the annual  
 5 salaries of permanent full-time employees of the Judicial Department whose salaries are not  
 6 itemized in this act shall be increased by one percent (1%).

7       **SECTION 24.4.(c)** Effective for the 2013-2015 fiscal biennium, the annual salaries  
 8 of permanent part-time employees of the Judicial Department whose salaries are not itemized  
 9 in this act shall be increased by pro rata amounts equivalent to one percent (1%).

10       **SECTION 24.4.(d)** Effective for the 2013-2015 fiscal biennium, notwithstanding  
 11 anything to the contrary, the annual salaries of clerks of superior court under G.S. 7A-101(a)  
 12 shall not change when a county changes from one population group to another.

13       **SECTION 24.4.(e)** The district attorney or public defender of a judicial district,  
 14 with the approval of the Administrative Officer of the Courts or the Commission on Indigent  
 15 Defense Services, respectively, shall set the salaries of assistant district attorneys or assistant  
 16 public defenders, respectively, in that district such that the average salaries of assistant district  
 17 attorneys or assistant public defenders in that district do not exceed seventy-two thousand five  
 18 hundred fifteen dollars (\$72,515) and the minimum salary of any assistant district attorney or  
 19 assistant public defender is at least thirty-eight thousand four dollars (\$38,004), effective July  
 20 1, 2013.

21       **SECTION 24.4.(f)** The automatic salary step increases for assistant and deputy  
 22 clerks of superior court and magistrates are suspended for the 2013-2015 fiscal biennium.

23  
 24 **CLERK OF SUPERIOR COURT/SALARY INCREASES**

25       **SECTION 24.5** G.S. 7A-101(a) reads as rewritten:

26       "(a) The clerk of superior court is a full-time employee of the State and shall receive an  
 27 annual salary, payable in equal monthly installments, based on the population of the county as  
 28 determined in subsection (a1) of this section, according to the following schedule:

29	Population	Annual Salary
30	Less than 100,000	<del>\$ 83,390</del> <u>\$84,224</u>
31	100,000 to 149,999	<del>93,578</del> <u>\$94,514</u>
32	150,000 to 249,999	<del>103,766</del> <u>\$104,804</u>
33	250,000 and above	<del>113,958</del> <u>\$115,098</u>

34       When a county changes from one population group to another, the salary of the clerk shall  
 35 be changed, on July 1 of the fiscal year for which the change is reported, to the salary  
 36 appropriate for the new population group, except that the salary of an incumbent clerk shall not  
 37 be decreased by any change in population group during his continuance in office."

38  
 39 **ASSISTANT AND DEPUTY CLERKS OF COURT/SALARY INCREASES**

40       **SECTION 24.6** G.S. 7A-102(c1) reads as rewritten:

41       "(c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time deputy  
 42 clerk serving as head bookkeeper per county, shall be paid an annual salary subject to the  
 43 following minimum and maximum rates:

44	Assistant Clerks and Head Bookkeeper	Annual Salary
45	Minimum	<del>\$32,609</del> <u>\$32,935</u>
46	Maximum	<del>55,424</del> <u>\$55,978</u>
47		
48	Deputy Clerks	Annual Salary
49	Minimum	<del>\$28,223</del> <u>\$28,505</u>
50	Maximum	<del>43,107.</del> <u>\$43,538."</u>

**MAGISTRATES'/SALARY INCREASES**

**SECTION 24.7.(a)** G.S. 7A-171.1(a)(1) reads as rewritten:

"(1) A full-time magistrate shall be paid the annual salary indicated in the table set out in this subdivision. A full-time magistrate is a magistrate who is assigned to work an average of not less than 40 hours a week during the term of office. The Administrative Officer of the Courts shall designate whether a magistrate is full-time. Initial appointment shall be at the entry rate. A magistrate's salary shall increase to the next step every two years on the anniversary of the date the magistrate was originally appointed for increases to Steps 1 through 3, and every four years on the anniversary of the date the magistrate was originally appointed for increases to Steps 4 through 6.

Table of Salaries of Full-Time Magistrates

Step Level	Annual Salary
Entry Rate	<del>\$33,025</del> <u>\$33,355</u>
Step 1	<del>35,951</del> <u>\$36,311</u>
Step 2	<del>39,135</del> <u>\$39,526</u>
Step 3	<del>42,640</del> <u>\$43,066</u>
Step 4	<del>46,551</del> <u>\$47,017</u>
Step 5	<del>50,959</del> <u>\$51,469</u>
Step 6	<del>55,901</del> <u>\$56,460.</u> "

**SECTION 24.7.(b)** G.S. 7A-171.1(a1)(1) reads as rewritten:

"(a1) Notwithstanding subsection (a) of this section, the following salary provisions apply to individuals who were serving as magistrates on June 30, 1994:

(1) The salaries of magistrates who on June 30, 1994, were paid at a salary level of less than five years of service under the table in effect that date shall be as follows:

Less than 1 year of service	<del>\$26,846</del> <u>\$27,114</u>
1 or more but less than 3 years of service	<del>28,027</del> <u>\$28,307</u>
3 or more but less than 5 years of service	<del>30,405</del> <u>\$30,709.</u>

(2) Upon completion of five years of service, those magistrates shall receive the salary set as the Entry Rate in the table in subsection (a)."

**LEGISLATIVE BRANCH**

**GENERAL ASSEMBLY PRINCIPAL CLERKS/SALARY INCREASES**

**SECTION 24.8.(a)** For the 2013-2015 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 2013-2015 fiscal biennium, salaries in the legislative branch shall remain unchanged, as follows:

- (1) The annual salaries set by G.S. 120-37(c) for the principal clerks in each house shall remain unchanged.
- (2) 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.
- (3) 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 24.8.(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 five thousand three hundred thirty-three dollars (\$105,333)~~, one hundred six thousand three hundred eighty-six dollars (\$106,386), payable monthly. Each principal clerk shall also receive such additional compensation as approved by the Speaker of the House

1 of Representatives or the President Pro Tempore of the Senate, respectively, for additional  
 2 employment duties beyond those provided by the rules of their House. The Legislative Services  
 3 Commission shall review the salary of the principal clerks prior to submission of the proposed  
 4 operating budget of the General Assembly to the Governor and shall make appropriate  
 5 recommendations for changes in those salaries. Any changes enacted by the General Assembly  
 6 shall be by amendment to this paragraph."  
 7

## 8 **SERGEANT-AT-ARMS AND READING CLERKS/SALARY INCREASES**

9 **SECTION 24.9** G.S. 120-37(b) reads as rewritten:

10 "(b) The sergeant-at-arms and the reading clerk in each house shall be paid a salary of  
 11 ~~three hundred eighty five dollars (\$385.00)~~ three hundred eighty-nine dollars (\$389.00) per  
 12 week plus subsistence at the same daily rate provided for members of the General Assembly,  
 13 plus mileage at the rate provided for members of the General Assembly for one round trip only  
 14 from their homes to Raleigh and return. The sergeants-at-arms shall serve during sessions of  
 15 the General Assembly and at such time prior to the convening of, and subsequent to  
 16 adjournment or recess of, sessions as may be authorized by the Legislative Services  
 17 Commission. The reading clerks shall serve during sessions only."  
 18

## 19 **LEGISLATIVE EMPLOYEES/SALARY INCREASES**

20 **SECTION 24.10** The Legislative Services Officer shall increase the salaries of  
 21 nonelected employees of the General Assembly in effect on June 30, 2013, by one percent  
 22 (1%).  
 23

## 24 **COMMUNITY COLLEGES PERSONNEL/SALARY INCREASES**

25 **SECTION 24.11.(a)** For the 2013-2015 fiscal biennium, the annual salaries of all  
 26 community college faculty whose salaries are supported from the State's General Fund shall  
 27 remain unchanged. The minimum salaries for nine-month, full-time curriculum community  
 28 college faculty shall also remain unchanged as follows:

29 Education Level	Minimum Salary
30 Vocational Diploma/Certificate or Less	\$34,657
31 Associate Degree or Equivalent	\$35,167
32 Bachelor's Degree	\$37,379
33 Master's Degree or Education Specialist	\$39,342
34 Doctoral Degree	\$42,171.

35 No full-time faculty member shall earn less than the minimum salary for his or her education  
 36 level.

37 The pro rata hourly rate of the minimum salary for each education level shall be  
 38 used to determine the minimum salary for part-time faculty members.

39 **SECTION 24.11.(b)** For the 2013-2015 fiscal biennium, the Director of the Budget  
 40 shall transfer from the Reserve for Compensation Increases created in this act to the State  
 41 Board of Community Colleges funds sufficient to provide community college employees a  
 42 salary increase of one percent (1%), including funds for the employers' retirement and social  
 43 security contributions. These compensation funds may be used for any one or more of the  
 44 following: (i) merit pay increases, (ii) across-the-board increases, (iii) recruitment bonuses, (iv)  
 45 retention increases, (v) any other compensation increase, (vi) to offset the management  
 46 flexibility reduction, or (vii) employ personnel. Categories (i) through (v) shall be pursuant to  
 47 policies adopted by the State Board of Community Colleges.  
 48

## 49 **UNIVERSITY OF NORTH CAROLINA SYSTEM/SALARY INCREASES**

50 **SECTION 24.12.(a)** For the 2013-2015 fiscal biennium, the Director of the Budget  
 51 shall transfer from the Reserve for Compensation Increases created in this act to the Board of



1 Governors of The University of North Carolina funds sufficient to provide employees who are  
2 exempt from the State Personnel Act (EPA) a salary increase of one percent (1%), including  
3 funds for the employers' retirement and social security contributions. These compensation  
4 funds may be used to award compensation increases to EPA employees, pursuant to policies  
5 adopted by the Board of Governors, including, but not limited to, any one or more of the  
6 following: (i) merit pay increases, (ii) across-the-board increases, (iii) recruitment bonuses, and  
7 (iv) retention increases. These compensation funds may also be used for one or more of the  
8 following: (i) to offset the management flexibility reduction or (ii) employ personnel.

9 **SECTION 24.12.(b)** For the 2013-2015 fiscal biennium, the Director of the Budget  
10 shall transfer from the Reserve for Compensation Increases created in this act to the Board of  
11 Governors of The University of North Carolina funds sufficient to provide to employees who  
12 are subject to the State Personnel Act (SPA) a salary increase of one percent (1%), including  
13 funds for the employers' retirement and social security contributions.  
14

#### 15 **STATE HIGHWAY PATROL/SALARY INCREASES**

16 **SECTION 24.13.** The salary increase provisions of G.S. 20-187.3 are suspended  
17 for the 2013-2015 fiscal biennium.  
18

#### 19 **MOST STATE EMPLOYEES/SALARY INCREASES**

20 **SECTION 24.14.(a)** For the 2013-2015 fiscal biennium, the salaries in effect June  
21 30, 2013, for the following employees shall be increased by one percent (1%), effective July 1,  
22 2013:

- 23 (1) Permanent full-time State officials and persons whose salaries are set in  
24 accordance with the State Personnel Act.
- 25 (2) Permanent full-time State officials and persons in positions exempt from the  
26 State Personnel Act.
- 27 (3) Permanent part-time State employees.

28 **SECTION 24.14.(b)** For the 2013-2015 fiscal biennium, the rate of pay of  
29 temporary State employees and permanent hourly State employees may be increased on an  
30 equitable basis (i) subject to the availability of funds in the employing State agency,  
31 department, or institution and (ii) within regular State Budget Act procedures consistent with  
32 this act.  
33

#### 34 **ALL STATE-SUPPORTED PERSONNEL/SALARY INCREASES**

35 **SECTION 24.15.(a)** The Director of the Budget shall transfer from the Reserve for  
36 Compensation Increases in this act for fiscal biennium 2013-2015 all funds necessary for the  
37 salary increases provided by this act, including funds for the employers' retirement and social  
38 security contributions.

39 **SECTION 24.15.(b)** Salaries and related benefits for positions that are funded  
40 partially from the General Fund or Highway Fund and partially from sources other than the  
41 General Fund or Highway Fund shall be increased from the General Fund or Highway Fund  
42 appropriation only to the extent of the proportionate part of the salaries paid from the General  
43 Fund or Highway Fund. Nothing in this act authorizes the transfer of funds between the  
44 General Fund and the Highway Fund for salary increases.

45 **SECTION 24.15.(c)** The fiscal biennium 2013-2015 salary increases provided in  
46 this act are to be effective July 1, 2013, and do not apply to persons separated from State  
47 service due to resignation, dismissal, reduction in force, death, or retirement or whose last  
48 workday is prior to July 1, 2013.

49 **SECTION 24.15.(d)** The granting of the salary increases under this act does not  
50 affect the status of eligibility for salary increments for which employees may be eligible unless  
51 otherwise required by this act.

1           **SECTION 24.15.(e)** Payroll for employees on or after July 1, 2013, which  
2 represent payment of services provided prior to these increases shall not be eligible for salary  
3 increases provided for in this act. This section shall apply to all employees, subject to or  
4 exempt from the State Personnel Act, paid from State funds, including public schools,  
5 community colleges, and The University of North Carolina.

6           **SECTION 24.15.(f)** Except as otherwise provided by this act, for the 2013-2015  
7 fiscal biennium, permanent full-time State agency employees and State-funded public school  
8 employees who work a nine-, 10-, or 11-month work year schedule shall receive the one  
9 percent (1%) annual increase provided by this act.

#### 10 11 **SALARY ADJUSTMENT RESERVE**

12           **SECTION 24.16.(a)** General Fund and Highway Fund reserve budget codes are  
13 established in the Office of State Budget and Management to fund the Salary Adjustment  
14 Reserve.

15           **SECTION 24.16.(b)** Funds appropriated or otherwise transferred to the Salary  
16 Adjustment Reserve by this act or any other provision of law shall be used to fund agency  
17 requests for the following purposes:

- 18           (1) Salary range revisions to provide competitive salary rates for affected job  
19 classifications in response to changes in labor market salary rates as  
20 documented through data collection and analysis according to accepted  
21 human resource professional practices and standards.
- 22           (2) Reallocation of positions to higher-level job classifications to compensate  
23 employees for more difficult duties at competitive salary rates as  
24 documented through data collection and analysis according to accepted  
25 human resource professional practices and standards.

26           **SECTION 24.16.(c)** The Office of State Budget and Management shall monitor  
27 requests from State agencies, universities, and institutions requesting use of these funds.

#### 28 29 **ESTABLISH SEVERANCE EXPENDITURE RESERVE**

30           **SECTION 24.18.(a)** There are established in the Office of State Budget and  
31 Management General Fund and Highway Fund reserve budget codes for the purpose of funding  
32 severance-related obligations to State employees subject to the State Personnel Act, and  
33 employees exempt from the State Personnel Act, who are separated from service due to a  
34 reduction-in-force action. Severance-related expenditures from these reserves shall include  
35 obligations to fund:

- 36           (1) A State employee's severance salary continuation with an age adjustment  
37 factor as authorized by G.S. 126-8.5, including employer-related  
38 contributions for social security, and
- 39           (2) Noncontributory health premiums for up to 12 months as authorized by  
40 G.S. 135-45.2(a)(8) for employees of employing units as defined by  
41 G.S. 135-45.1(12).

42           **SECTION 24.18.(b)** The Director of the Budget shall allocate funds to the  
43 Severance Expenditure Reserve to public agencies to fund severance-related obligations  
44 incurred by the agencies as a result of reduction-in-force actions that cause State-supported  
45 public employees to be terminated from public employment. Funds appropriated to the  
46 Severance Expenditure Reserve shall be expended in their entirety before funds appropriated to  
47 a public agency for State-supported personal services expenditures may be used to fund any  
48 severance-related obligations.

49           Funds appropriated to the Severance Expenditure Reserve may be allocated to  
50 public agencies for positions that are funded by the General Fund or Highway Fund. Funds  
51 appropriated to the Severance Expenditure Reserve may also be allocated to public agencies for

1 positions that are funded partially from the General Fund or Highway Fund and partially from  
 2 sources other than the General Fund or Highway Fund but only to the extent of the  
 3 proportionate part of the salaries paid from the General Fund or Highway Fund.

4 For the purposes of this subsection, the term "public employee" means an employee  
 5 of a State agency, department, or institution; The University of North Carolina; the North  
 6 Carolina Community College System; or a local school administrative unit.

## 8 TEACHER SALARY SCHEDULES

9 **SECTION 24.19.** The following monthly salary schedules shall apply for the  
 10 2013-2014 fiscal year to certified personnel of the public schools who are classified as teachers.  
 11 The schedules contain 36 steps, with each step corresponding to one year of teaching  
 12 experience. Public school employees paid according to this salary schedule and receiving  
 13 NBPTS certification or obtaining a master's degree shall not be prohibited from receiving the  
 14 appropriate increase in salary. Provided, however, teachers employed during the 2012-2013  
 15 school year who did not work the required number of months to acquire an additional year of  
 16 experience shall not receive a decrease in salary as otherwise would be required by the salary  
 17 schedule below.

### 19 2013-2014 Monthly Salary Schedule

#### 20 "A" Teachers

21 Years of Experience	"A" Teachers	NBPTS Certification
22 0-2	\$3,111	N/A
23 3-5	\$3,111	\$3,485
24 6	\$3,153	\$3,532
25 7	\$3,199	\$3,582
26 8	\$3,336	\$3,736
27 9	\$3,479	\$3,897
28 10	\$3,616	\$4,050
29 11	\$3,748	\$4,198
30 12	\$3,854	\$4,317
31 13	\$3,904	\$4,372
32 14	\$3,953	\$4,428
33 15	\$4,005	\$4,485
34 16	\$4,055	\$4,542
35 17	\$4,107	\$4,600
36 18	\$4,159	\$4,658
37 19	\$4,213	\$4,719
38 20	\$4,268	\$4,780
39 21	\$4,325	\$4,844
40 22	\$4,380	\$4,906
41 23	\$4,441	\$4,974
42 24	\$4,501	\$5,041
43 25	\$4,560	\$5,108
44 26	\$4,623	\$5,177
45 27	\$4,685	\$5,248
46 28	\$4,753	\$5,324
47 29	\$4,819	\$5,397
48 30	\$4,884	\$5,470
49 31	\$4,952	\$5,546
50 32	\$5,022	\$5,625
51 33	\$5,094	\$5,705

1	34	\$5,167	\$5,787
2	35	\$5,267	\$5,899
3	36+	\$5,371	\$6,016

## 2013-2014 Monthly Salary Schedule

## "M" Teachers

7	Years of Experience	"M" Teachers	NBPTS Certification
8	0-2	\$3,422	N/A
9	3-5	\$3,422	\$3,833
10	6	\$3,468	\$3,884
11	7	\$3,519	\$3,941
12	8	\$3,669	\$4,110
13	9	\$3,828	\$4,287
14	10	\$3,977	\$4,455
15	11	\$4,123	\$4,618
16	12	\$4,240	\$4,749
17	13	\$4,295	\$4,810
18	14	\$4,348	\$4,870
19	15	\$4,406	\$4,934
20	16	\$4,461	\$4,996
21	17	\$4,518	\$5,060
22	18	\$4,575	\$5,125
23	19	\$4,634	\$5,190
24	20	\$4,695	\$5,259
25	21	\$4,757	\$5,328
26	22	\$4,819	\$5,397
27	23	\$4,885	\$5,471
28	24	\$4,951	\$5,545
29	25	\$5,017	\$5,619
30	26	\$5,085	\$5,695
31	27	\$5,154	\$5,772
32	28	\$5,229	\$5,856
33	29	\$5,300	\$5,937
34	30	\$5,373	\$6,018
35	31	\$5,447	\$6,100
36	32	\$5,524	\$6,186
37	33	\$5,603	\$6,276
38	34	\$5,684	\$6,366
39	35	\$5,794	\$6,489
40	36+	\$5,909	\$6,618

**SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE**

**SECTION 24.20.** The 2012-2013 base salary schedule for school-based administrators, plus an additional one percent (1%), is in effect for the 2013-2014 fiscal year, effective July 1, 2013. The base salary schedule for school-based administrators shall apply only to principals and assistant principals. Provided, however, school-based administrators (i) employed during the 2012-2013 school year who did not work the required number of months to acquire an additional year of experience and (ii) employed during the 2013-2014 school year in the same classification shall not receive a decrease in salary as otherwise would be required by the salary schedule.

**CENTRAL OFFICE SALARIES**

**SECTION 24.21.(a)** The monthly salary ranges that follow apply to assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers for the 2013-2014 fiscal year, beginning July 1, 2013.

School Administrator I	\$3,382	\$6,344
School Administrator II	\$3,586	\$6,729
School Administrator III	\$3,807	\$7,139
School Administrator IV	\$3,959	\$7,422
School Administrator V	\$4,119	\$7,723
School Administrator VI	\$4,369	\$8,190
School Administrator VII	\$4,545	\$8,520

The local board of education shall determine the appropriate category and placement for each assistant superintendent, associate superintendent, director/coordinator, supervisor, or finance officer within the salary ranges and within funds appropriated by the General Assembly for central office administrators and superintendents. The category in which an employee is placed shall be included in the contract of any employee.

**SECTION 24.21.(b)** The monthly salary ranges that follow apply to public school superintendents for the 2012-2013 fiscal year, beginning July 1, 2013.

Superintendent I	\$4,825	\$9,038
Superintendent II	\$5,122	\$9,585
Superintendent III	\$5,434	\$10,168
Superintendent IV	\$5,767	\$10,786
Superintendent V	\$6,121	\$11,443

The local board of education shall determine the appropriate category and placement for the superintendent based on the average daily membership of the local school administrative unit and within funds appropriated by the General Assembly for central office administrators and superintendents.

**SECTION 24.21.(c)** Longevity pay for superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers shall be as provided for State employees under the State Personnel Act.

**SECTION 24.21.(d)** Superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-seven dollars (\$127.00) per month in addition to the compensation provided pursuant to this section. Superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-six dollars (\$256.00) per month in addition to the compensation provided for under this section.

**SECTION 24.21.(e)** The State Board of Education shall not permit local school administrative units to transfer State funds from other funding categories for salaries for public school central office administrators.

**SECTION 24.21.(f)** The salaries of all permanent full-time personnel paid from the Central Office Allotment shall be increased by one percent (1%), commencing July 1, 2013. The State Board of Education shall allocate these funds to local school administrative units. The local boards of education shall establish guidelines for providing salary increases to these personnel.

**NONCERTIFIED PERSONNEL SALARIES**

1           **SECTION 24.22.(a)** The annual salary increase for permanent, full-time  
2 noncertified public school employees whose salaries are supported from the State's General  
3 Fund shall be one percent (1%), commencing July 1, 2013.

4           **SECTION 24.22.(b)** Local boards of education shall increase the rates of pay for  
5 such employees who were employed for all or part of fiscal year 2012-2013 and who continue  
6 their employment for fiscal year 2013-2014 by providing an annual salary increase for  
7 employees of one percent (1%).

8           For part-time employees, the pay increase shall be pro rata based on the number of  
9 hours worked.

10          **SECTION 24.22.(c)** The State Board of Education may adopt salary ranges for  
11 noncertified personnel to support increases of one percent (1%) for the 2013-2014 fiscal year.  
12

### 13 **STATE AGENCY TEACHERS' COMPENSATION**

14          **SECTION 24.23.** Funds in the Reserve for Compensation Increases and Personnel  
15 Flexibility shall be used to increase annual salaries, by one percent (1%), for employees of  
16 schools operated by the Department of Public Instruction, the Department of Health and  
17 Human Services, and the Department of Public Safety, who are paid on the Teacher Salary  
18 Schedule or the School-Based Administrator Salary Schedule.  
19

### 20 **SALARY-RELATED CONTRIBUTIONS**

21          **SECTION 24.24.(a)** Effective for the 2013-2015 fiscal biennium, required  
22 employer salary-related contributions for employees whose salaries are paid from department,  
23 office, institution, or agency receipts shall be paid from the same source as the source of the  
24 employees' salary. If an employee's salary is paid in part from the General Fund or Highway  
25 Fund and in part from department, office, institution, or agency receipts, required employer  
26 salary-related contributions may be paid from the General Fund or Highway Fund only to the  
27 extent of the proportionate part paid from the General Fund or Highway Fund in support of the  
28 salary of the employee, and the remainder of the employer's requirements shall be paid from the  
29 source that supplies the remainder of the employee's salary. The requirements of this section as  
30 to source of payment are also applicable to payments on behalf of the employee for  
31 hospital-medical benefits, longevity pay, unemployment compensation, accumulated leave,  
32 workers' compensation, severance pay, separation allowances, and applicable disability income  
33 benefits.

34          Notwithstanding any other provision of law, an employing unit, as defined in  
35 G.S. 135-45.1 or in G.S. 135-48.1 as enacted by this act, that hires or has hired as an employee  
36 a retiree that is in receipt of monthly retirement benefits from any retirement system supported  
37 in whole or in part by contributions of the State shall enroll the retiree in the active group and  
38 pay the cost for the hospital-medical benefits if that retiree is employed in a position that would  
39 require the employer to pay hospital-medical benefits if the individual had not been retired.

40          **SECTION 24.24.(b)** Effective July 1, 2013, the State's employer contribution rates  
41 budgeted for retirement and related benefits as percentage of covered salaries for the 2013-2014  
42 fiscal year are (i) fourteen and fifty-nine hundredths percent (14.59%) – Teachers and State  
43 Employees; (ii) nineteen and fifty-nine hundredths percent (19.59%) – State Law Enforcement  
44 Officers; (iii) twelve and fifty-eight hundredths percent (12.58%) – University Employees'  
45 Optional Retirement System; (iv) twelve and fifty-eight hundredths percent (12.58%) –  
46 Community College Optional Retirement Program; (v) thirty-three and thirty-one hundredths  
47 percent (33.31%) – Consolidated Judicial Retirement System; and (vi) five and three  
48 hundredths percent (5.30%) – Legislative Retirement System. Each of the foregoing  
49 contribution rates includes five and three hundredths percent (5.30%) for hospital and medical  
50 benefits. The rate for Teachers and State Employees, State Law Enforcement Officers,  
51 Community College Optional Retirement Program, and for the University Employees' Optional

1 Retirement Program includes forty-four hundredths percent (0.44%) for the Disability Income  
2 Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include  
3 sixteen hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law  
4 Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

5 **SECTION 24.24.(c)** Effective July 1, 2014, the State's employer contribution rates  
6 budgeted for retirement and related benefits as percentage of covered salaries for the 2013-2014  
7 fiscal year are (i) fourteen and fifty-nine hundredths percent (14.59%) – Teachers and State  
8 Employees; (ii) nineteen and fifty-nine hundredths percent (19.59%) – State Law Enforcement  
9 Officers; (iii) twelve and fifty-eight hundredths percent (12.58%) – University Employees'  
10 Optional Retirement System; (iv) twelve and fifty-eight hundredths percent (12.58%) –  
11 Community College Optional Retirement Program; (v) thirty-three and thirty-one hundredths  
12 percent (33.31%) – Consolidated Judicial Retirement System; and (vi) five and three  
13 hundredths percent (5.30%) – Legislative Retirement System. Each of the foregoing  
14 contribution rates includes five and three hundredths percent (5.30%) for hospital and medical  
15 benefits. The rate for Teachers and State Employees, State Law Enforcement Officers,  
16 Community College Optional Retirement Program, and for the University Employees' Optional  
17 Retirement Program includes forty-four hundredths percent (0.44%) for the Disability Income  
18 Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include  
19 sixteen hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law  
20 Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

21 **SECTION 24.24.(d)** Effective July 1, 2013, the maximum annual employer  
22 contributions, payable monthly, by the State for each covered employee or retiree for the  
23 2013-2014 fiscal year to the State Health Plan for Teachers and State Employees are (i)  
24 Medicare-eligible employees and retirees – four thousand one hundred thirty dollars (\$4,130)  
25 and (ii) non-Medicare-eligible employees and retirees – five thousand three hundred fourteen  
26 dollars (\$5,314).

27 **SECTION 24.24.(e)** Effective July 1, 2014, the maximum annual employer  
28 contributions, payable monthly, by the State for each covered employee or retiree for the  
29 2014-2015 fiscal year to the State Health Plan for Teachers and State Employees are (i)  
30 Medicare-eligible employees and retirees – four thousand three hundred twenty-four dollars  
31 (\$4,324) and (ii) non-Medicare-eligible employees and retirees – five thousand five hundred  
32 sixty-four dollars (\$5,564).

33  
34 **PROVIDE COST-OF-LIVING INCREASES FOR RETIREES OF THE TEACHERS'  
35 AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE JUDICIAL  
36 RETIREMENT SYSTEM, AND THE LEGISLATIVE RETIREMENT SYSTEM**

37 **SECTION 24.25.(a)** G.S. 135-5 is amended by adding a new subsection to read:

38 "(sss) From and after July 1, 2013, the retirement allowance to or on account of  
39 beneficiaries whose retirement commenced on or before July 1, 2012, shall be increased by one  
40 percent (1%) of the allowance payable on June 1, 2013, in accordance with G.S. 135-5(o).  
41 Furthermore, from and after July 1, 2013, the retirement allowance to or on account of  
42 beneficiaries whose retirement commenced after July 1, 2012, but before June 30, 2013, shall  
43 be increased by a prorated amount of one percent (1%) of the allowance payable as determined  
44 by the Board of Trustees based upon the number of months that a retirement allowance was  
45 paid between July 1, 2012, and June 30, 2013."

46 **SECTION 24.25.(b)** G.S. 135-65 is amended by adding a new subsection to read:

47 "(dd) From and after July 1, 2013, the retirement allowance to or on account of  
48 beneficiaries whose retirement commenced on or before July 1, 2012, shall be increased by one  
49 percent (1%) of the allowance payable on June 1, 2013. Furthermore, from and after July 1,  
50 2013, the retirement allowance to or on account of beneficiaries whose retirement commenced  
51 after July 1, 2012, but before June 30, 2013, shall be increased by a prorated amount of one

1 percent (1%) of the allowance payable as determined by the Board of Trustees based upon the  
2 number of months that a retirement allowance was paid between July 1, 2012, and June 30,  
3 2013."

4 **SECTION 24.25.(c)** G.S. 120-4.22A is amended by adding a new subsection to  
5 read:

6 "(x) In accordance with subsection (a) of this section, from and after July 1, 2013, the  
7 retirement allowance to or on account of beneficiaries whose retirement commenced on or  
8 before January 1, 2013, shall be increased by one percent (1%) of the allowance payable on  
9 June 1, 2013. Furthermore, from and after July 1, 2013, the retirement allowance to or on  
10 account of beneficiaries whose retirement commenced after January 1, 2013, but before June  
11 30, 2013, shall be increased by a prorated amount of one percent (1%) of the allowance payable  
12 as determined by the Board of Trustees based upon the number of months that a retirement  
13 allowance was paid between January 1, 2013, and June 30, 2013."

## 14

### 15 **PART XXV. CAPITAL APPROPRIATIONS**

#### 16

#### 17 **G.S. 143C-11. REVERSION OF APPROPRIATION AND LAPSE OF PROJECT** 18 **AUTHORIZATION.**

19 **SECTION 25.1.(a)** Reversion of Appropriation. – A State agency shall begin the  
20 planning of or the construction of an authorized capital improvement project during the fiscal  
21 year in which the funds are appropriated. If it does not, the Director may credit the  
22 appropriation to the Project Reserve Account, unless otherwise required by law. If the Director  
23 does not credit the appropriation to the Project Reserve Account, the appropriation shall revert  
24 to the principal fund from which it was appropriated. The Director may, for good cause, allow a  
25 State agency to take up to an additional 12 months to take the actions required by this  
26 subsection.

27 **SECTION 25.1.(b)** Lapse of Project Authorization. – Authorizations for capital  
28 improvement projects shall lapse if any of the following occur: (i) the appropriation for a  
29 capital improvement project reverts, (ii) the construction of a project does not begin during the  
30 first two fiscal years in which funds are appropriated, or (iii) the Director redirects funds  
31 appropriated for a capital improvement project in accordance with G.S. 143C-6-2. The Director  
32 may, for good cause, allow a State agency to take up to an additional 12 months to begin  
33 construction of a project; however, if the Director approves an extension of time under this  
34 subsection and construction of the project has not begun by the end of the extension, the  
35 authorization for the project shall lapse. Capital improvement project authorizations for the  
36 North Carolina National Guard shall only lapse at the discretion of the Director of the Budget.

#### 37

#### 38 **PROHIBIT EXPENDITURES OF STATE FUNDS FOR THE NORTH CAROLINA** 39 **INTERNATIONAL TERMINAL**

40 **SECTION 25.2.(a)** Notwithstanding G.S. 136-253 and any other provision of law,  
41 State funds, as that term is defined in G.S. 143C-1-1, shall not be used to fund the North  
42 Carolina International Terminal of the North Carolina State Ports Authority.

43 **SECTION 25.2.(b)** This section shall expire on June 30, 2014.

#### 44

#### 45 **REPAIRS AND RENOVATIONS RESERVE ALLOCATION**

46 **SECTION 25.3.(a)** Of the funds in the Reserve for Repairs and Renovations for  
47 the 2013-2014 fiscal year, the following allocations shall be made to the following agencies for  
48 repairs and renovations pursuant to G.S. 143C-4-3:

- 49 (1) Fifty million dollars (\$50,000,000) shall be allocated to the Board of  
50 Governors of The University of North Carolina.



- 1 (2) One hundred million dollars (\$100,000,000) shall be allocated to the Office  
2 of State Budget and Management.

3 The Office of State Budget and Management shall consult with or report to the Joint  
4 Legislative Commission on Governmental Operations, as appropriate, in accordance with  
5 G.S. 143C-4-3(e). The Board of Governors shall report to the Joint Legislative Commission on  
6 Governmental Operations in accordance with G.S. 143C-4-3(d).

7 **SECTION 25.3.(b)** Notwithstanding G.S. 143C-4-3(d), of the funds allocated to  
8 the Board of Governors of The University of North Carolina in subsection (a) of this section, a  
9 portion shall be used by the Board of Governors for the installation of fire sprinklers in  
10 university residence halls. This portion shall be in addition to funds otherwise appropriated in  
11 this act for the same purpose. Such funds shall be allocated among the university's institutions  
12 by the President of The University of North Carolina, who shall consider the following factors  
13 when allocating those funds:

- 14 (1) The safety and well-being of the residents of campus housing programs.  
15 (2) The current level of housing rents charged to students and how that  
16 compares to an institution's public peers and other UNC institutions.  
17 (3) The level of previous authorizations to constituent institutions for the  
18 construction or renovation of residence halls funded from the General Fund,  
19 or from bonds or certificates of participation supported by the General Fund,  
20 since 1996.  
21 (4) The financial status of each constituent institution's housing system,  
22 including debt capacity, debt coverage ratios, credit rankings, required  
23 reserves, the planned use of cash balances for other housing system  
24 improvements, and the constituent institution's ability to pay for the  
25 installation of fire sprinklers in all residence halls.  
26 (5) The total cost of each proposed project, including the cost of installing fire  
27 sprinklers and the cost of other construction, such as asbestos removal and  
28 additional water supply needs.

29 The Board of Governors shall submit progress reports to the Joint Legislative Commission on  
30 Governmental Operations. Reports shall include the status of completed, current, and planned  
31 projects. Reports also shall include information on the financial status of each constituent  
32 institution's housing system, the constituent institution's ability to pay for fire protection in  
33 residence halls, and the timing of installation of fire sprinklers. Reports shall be submitted on  
34 January 1 and July 1 until all residence halls have fire sprinklers.

35 **SECTION 25.3.(c)** Notwithstanding G.S. 143C-4-3(d), of the funds allocated to  
36 the Board of Governors of The University of North Carolina in subsection (a) of this section, a  
37 portion shall be used by the Board of Governors for campus public safety improvements  
38 allowable under G.S. 143C-4-3(b).

#### 40 **REPORTING ON CAPITAL PROJECTS**

41 **SECTION 25.4.(a)** Definitions. – The following definitions apply in this section:

- 42 (1) Capital project. – Any capital improvement, as that term is defined in  
43 G.S. 143C-1-1, that is not complete by the effective date of this section and  
44 that is funded in whole or in part with either State funds or statutorily or  
45 constitutionally authorized indebtedness of any kind. This term includes only  
46 projects with a total cost of one hundred thousand dollars (\$100,000) or  
47 more.  
48 (2) Construction phase. – The status of a particular capital project as described  
49 using the terms customarily employed in the design and construction  
50 industries.

- 1 (3) New capital project. – A capital project that is authorized in this act or  
2 subsequent to the effective date of this act.

3 **SECTION 25.4.(b)** Reporting. – The following reports are required:

- 4 (1) By October 1, 2014, and every six months thereafter, each State agency shall  
5 report on the status of agency capital projects to the Joint Legislative  
6 Commission on Governmental Operations and to the Joint Legislative  
7 Oversight Committee on Capital Improvements.  
8 (2) By October 1, 2014, and quarterly thereafter, each State agency shall report  
9 on the status of agency capital projects to the Fiscal Research Division of the  
10 General Assembly and to the Office of State Budget and Management.

11 **SECTION 25.4.(c)** The reports required by this section shall include at least the  
12 following information about every agency capital project:

- 13 (1) The current construction phase of the project.  
14 (2) The anticipated time line from the current construction phase to project  
15 completion.  
16 (3) Information about expenditures that have been made in connection with the  
17 project, regardless of source of the funds expended.  
18 (4) Information about the adequacy of funding to complete the project,  
19 including estimates of how final expenditures will relate to initial estimates  
20 of expenditures, and whether or not scope reductions will be necessary in  
21 order to complete the project within its budget.  
22 (5) For new capital projects only, an estimate of the operating costs for the  
23 project for the first five fiscal years of its operation.  
24

#### 25 **TRANSFER FOR PLANT CONSERVATION PROGRAM**

26 **SECTION 25.5.** From funds that are deposited with the State Treasurer pursuant to  
27 G.S. 146-30 to the credit of the Department of Agriculture and Consumer Services in a capital  
28 improvement account, the sum of thirty thousand dollars (\$30,000) for the 2013-2014 fiscal  
29 year shall be transferred to the Department of Agriculture and Consumer Services to be used,  
30 notwithstanding G.S. 146-30, by the Department for its plant conservation program under  
31 Article 19B of Chapter 106 of the General Statutes for costs incidental to the acquisition of  
32 land, such as land appraisals, land surveys, title searches, environmental studies, and for the  
33 management of plant conservation program preserves owned by the Department.  
34

#### 35 **ELIMINATE PUBLIC SCHOOL BUILDING CAPITAL FUND TRANSFER** 36 **PERMANENTLY**

37 **SECTION 25.6.(a)** G.S. 115C-546.1(b) is repealed.

38 **SECTION 25.6.(b)** This section is effective for taxable years beginning on or after  
39 January 1, 2013.

40 **SECTION 25.6.(c)** Notwithstanding G.S. 115C-546.2(a), the State Board of  
41 Education may use, out of funds available, up to one million five hundred thousand dollars  
42 (\$1,500,000) of funds available under G.S. 115C-546.2 to support positions in the Department  
43 of Public Instruction's Support Services Division.  
44

#### 45 **CHANGE IN JOINT LEGISLATIVE COMMISSION ON GOVERNMENTAL** 46 **OPERATIONS CONSULTATION**

47 **SECTION 25.7.** G.S. 120-76.1 reads as rewritten:

48 "**§ 120-76.1. Prior consultation with the Commission.**

49 (a) Notwithstanding the provisions of G.S. 120-76(8) or any other provision of law  
50 requiring prior consultation by the Governor with the Commission, whenever an expenditure is  
51 required because of an emergency that poses an imminent threat to public health or public

1 safety, and is either the result of a natural event, such as a hurricane or a flood, or an accident,  
 2 such as an explosion or a wreck, the Governor may take action without consulting the  
 3 Commission if the action is determined by the Governor to be related to the emergency. The  
 4 Governor shall report to the Commission on any expenditures made under this subsection no  
 5 later than 30 days after making the expenditure and shall identify in the report the emergency,  
 6 the type of action taken, and how it was related to the emergency.

7 (b) Any agency, board, commission, or other entity required under G.S. 120-76(8) or  
 8 any other provision of law to consult with the Commission prior to taking an action shall  
 9 submit a detailed report of the action under consideration to the Chairs of the Commission, the  
 10 Commission Assistant, and the Fiscal Research Division of the General Assembly. If the  
 11 Commission does not hold a meeting to hear the consultation within 90 days of receiving the  
 12 submission of the detailed report, the consultation requirement is satisfied. With regard to  
 13 capital improvement ~~projects of The University of North Carolina, projects,~~ if the Commission  
 14 does not hold a meeting to hear the consultation within 30 days of receiving the submission of  
 15 the detailed report, the consultation requirement of G.S. 120-76(8)e. is satisfied.

16 (c) Consultations regarding the establishment of new fees and charges and the increase  
 17 of existing fees and charges are governed by G.S. 12-3.1, and this section does not apply to  
 18 those consultations."  
 19

## 20 WATER RESOURCES DEVELOPMENT PROJECT FUNDS

21 **SECTION 25.8.(a)** The Department of Environment and Natural Resources shall  
 22 allocate the funds for water resources development projects from the 2012-2013 year-end credit  
 23 balance and in accordance with the schedule that follows. These funds will provide a State  
 24 match for thirty million four hundred seventeen thousand dollars (\$30,417,000) in federal  
 25 funds.  
 26

	<b>2013-2014</b>
28 (1) B. Everett Jordan Lake Water Supply Storage	\$ 200,000
29 (2) Wilmington Harbor Deepening (75/25)	2,400,000
30 (3) Wilmington Harbor Maintenance (Disposal Area 8 & 10)	800,000
31 (4) Morehead City Harbor Maintenance	-
32 (5) Long-Term Dredging MOA with USACE	2,000,000
33 (6) Wilmington Harbor Improvements Feasibility (50/50)	250,000
34 (7) Planning Assistance to Communities (50/50)	25,000
35 (8) Manteo Old House Channel Cap Sec. 204 (65/35)	250,000
36 (9) John H. Kerr Dam and Reservoir Sec. 216 (50/50)	50,000
37 (10) Neuse River Basin Restoration PED (50/50)	93,000
38 (11) Currituck Sound Environmental Restoration Study (50/50)	158,000
39 (12) Princeville Blood Damage Reduction Feasibility Study (50/50)	124,000
40 (13) NRCS EQUIP Project	1,500,000
41 (14) Wrightsville Beach Renourishment Project (65/35) (full project)	1,077,000
42 (15) Ocean Isle Beach Renourishment Project (65/35) (full project)	1,454,000
43 (16) Carolina Beach Renourishment (65/35) (40% project)	592,000
44 (17) Kure Beach Renourishment (65/35) (40% project)	554,000
45 (18) Bogue Banks Coastal Storm Damage Reduction Study (50/50)	190,000
46 (19) Surf City/NTB Coastal Storm Damage Reduction Study PED (75/25)	-
47 (20) West Onslow Beach (Topsail Beach) PED (75/25)	56,000
48 (21) Water Resources Planning in Support of Session Law 2010-143	-
49 (22) Aquatic Plant Control, Statewide and Lake Gaston (50/50)	200,000
50 (23) State-Local Projects	1,000,000
51 (24) Skewarkee Drainage Project (50/50)	330,000

(25) Lake Waccamaw Hydrilla Eradication Project (50/50) 200,000

**TOTALS \$ 13,503,000**

**SECTION 25.8.(b)** It is the intent of the General Assembly that funds carried forward from previous fiscal years be used for the following projects:

	<b>2013-2014</b>
(1) Wilmington Harbor Maintenance (Disposal Area 8 & 10)	\$ 1,200,000
(2) Manteo Old House Channel Cap Sec. 204 (65/35)	1,250,000
(3) Neuse River Basin PED (75/25)	57,000
(4) Princeville Blood Damage Reduction Feasibility Study (50/50)	25,000
(5) Bogue Banks Coastal Storm Damage Reduction PED Study (75/25)	25,000
(6) Surf City/NTB Coastal Storm Damage Reduction Study PED (75/25)	37,000

**TOTALS \$ 2,594,000**

**SECTION 25.8.(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 2013-2014 fiscal year, or if the projects funded under subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

- (1) U.S. Army Corps of Engineers project feasibility studies.
- (2) U.S. Army Corps of Engineers projects whose schedules have advanced and require State-matching funds in fiscal year 2013-2014.
- (3) State-local water resources development projects.

However, fund availability shall not be used to fund the North Carolina International Terminal. Funds not expended or encumbered for these purposes shall revert to the General Fund at the end of the 2013-2014 fiscal year.

**SECTION 25.8.(d)** The Department shall make semiannual reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

- (1) All projects listed in this section.
- (2) The estimated cost of each project.
- (3) The date that work on each project began or is expected to begin.
- (4) The date that work on each project was completed or is expected to be completed.
- (5) The actual cost of each project.

The semiannual reports shall also show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

**SECTION 25.8.(e)** Notwithstanding any provision of law to the contrary, funds appropriated for a water resources development project shall be used to provide no more than fifty percent (50%) of the nonfederal portion of funds for the project. This subsection applied to funds appropriated in this act and to funds appropriated prior to the 2013-2015 fiscal biennium that are unencumbered and proposed for reallocation to provide the nonfederal portion of funds for water resources development projects. The limitation on fund usage contained in this subsection applies only to projects in which local government or local governments participate.

**SECTION 25.8.(f)** The Departments "Long Term Dredging Memorandum of Agreement" (MOA) with the U.S. Army Corps of Engineers is the subject of this subsection.

- 1 (1) The prioritization of all projects completed using these funds will be in joint  
 2 consultation with the State, applicable local units of government, and the  
 3 U.S. Army Corps of Engineers.
- 4 (2) Funds appropriated for this MOA shall be fifty percent (50%) of the total  
 5 cost for each project that is directly requested by a unit of local government.
- 6 (3) The Department shall make annual reports on the use of funds provided to  
 7 the U.S. Army Corps of Engineers under the "Long Term Dredging  
 8 Memorandum of Agreement" to the Joint Legislative Commission on  
 9 Governmental Operations, the Fiscal Research Division, and the Office of  
 10 State Budget and Management. Each report shall include all of the  
 11 following:
- 12 a. All projects started.
  - 13 b. Estimated cost of each project.
  - 14 c. The date that work on each project began or is expected to begin.
  - 15 d. The date that work on each project was completed or is expected to  
 16 be completed.
  - 17 e. The actual cost of each project.

## 18 **PART XXVI. REVENUE LAW CHANGES**

### 19 **REPEAL THE ESTATE TAX**

20 **SECTION 26.1.** Article 1A of Chapter 105 of the General Statutes is repealed.

21 **SECTION 26.2.** G.S. 105-241.10 reads as rewritten:

#### 22 **"§ 105-241.10. Limit on refunds and assessments after a federal determination.**

23 The limitations in this section apply when a taxpayer files a timely return reflecting a  
 24 federal determination that affects the amount of State tax payable and the general statute of  
 25 limitations for requesting a refund or proposing an assessment of the State tax has expired. A  
 26 federal determination is a correction or final determination by the federal government of the  
 27 amount of a federal tax due. A return reflecting a federal determination is timely if it is filed  
 28 within the time required by ~~G.S. 105-32.8, 105-130.20, 105-159, 105-160.8, or 105-163.6A~~, as  
 29 appropriate. The limitations are:

- 30 (1) Refund. – A taxpayer is allowed a refund only if the refund is the result of  
 31 adjustments related to the federal determination.
- 32 (2) Assessment. – A taxpayer is liable for additional tax only if the additional  
 33 tax is the result of adjustments related to the federal determination. A  
 34 proposed assessment may not include an amount that is outside the scope of  
 35 this liability."  
 36  
 37

38 **SECTION 26.3.** G.S. 105-236(a)(5) reads as rewritten:

39 "(a) Penalties. – The following civil penalties and criminal offenses apply:

40 ...

41 (5) Negligence. –

42 ...

43 e. ~~Estate tax deficiencies.—This subdivision does not apply to estate  
 44 tax deficiencies that are the result of valuation understatements.~~

45 ...."

46 **SECTION 26.4.** Sections 26.1, 26.2, and 26.3 of this act become effective January  
 47 1, 2013, and apply to the estates of decedents dying on or after that date. The remainder of this  
 48 act is effective when it becomes law.

## 49 **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.

**MOST TEXT APPLIES ONLY TO THE 2013-2015 FISCAL BIENNIUM**

**SECTION 27.2.** Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2013-2015 fiscal biennium, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2013-2015 fiscal biennium.

**EFFECT OF HEADINGS**

**SECTION 27.3.** 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.

**SEVERABILITY CLAUSE**

**SECTION 27.4.** 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 27.5.** Except as otherwise provided, this act becomes effective July 1, 2013.