
GENERAL GOVERNMENT

Special Provisions

H 97 COMPARISON

1 **House Only**

2 **TECHNICAL CORRECTIONS RELATING TO ROANOKE ISLAND COMMISSION**
3 **LEGAL COUNSEL AND USS NORTH CAROLINA BATTLESHIP REPAIRS**

4 **SECTION 19.1.(a)** G.S. 143B-131.7 is repealed.

5 **SECTION 19.1.(b)** Section 36.10 of S.L. 2014-100 reads as rewritten:

6 "SECTION 36.10. The General Assembly authorizes USS North Carolina Battleship hull and
7 cofferdam repairs to be funded at a maximum cost of thirteen million dollars (\$13,000,000) in
8 accordance with this section. The sum of three million dollars (\$3,000,000) of the proceeds of
9 bonds issued pursuant to Section 36.12(f)(7) of this act shall be used for this project. The remainder
10 of the project shall be funded with receipts or from other non-General Fund sources available to the
11 Department of Cultural Resources, and those funds are hereby appropriated for that purpose."
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14 **House Only**

15 **HISTORIC PRESERVATION SUPPORT STAFF FOR FEDERAL HISTORIC TAX**
16 **CREDITS**

17 **SECTION 19.2.** Notwithstanding any other provision of this act, funds appropriated to
18 the Department of Cultural Resources to provide staff to support historic revitalization and federal
19 tax credits shall be used to support four full-time equivalent staff positions rather than three.
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22 **Identical House and Senate**

23 **INSURANCE REGULATORY CHARGE;**

24 **SECTION 20.1.** The percentage rate to be used in calculating the insurance regulatory
25 charge under G.S. 58-6-25 is six and one-half percent (6.5%) for the 2016 calendar year.
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28 **Senate Only**

29 **SYNCHRONIZATION OF PRESCRIPTION REFILLS**

30 **SECTION 20.2.(a)** Article 3 of Chapter 58 of the General Statutes is amended by
31 adding a new section to read:

32 **"§ 58-3-181. Synchronization of prescription refills.**

33 (a) Every health benefit plan that provides coverage for prescription drugs shall provide for
34 synchronization of medication when it is agreed among the insured, the provider, and a pharmacist
35 that synchronization of multiple prescriptions for the treatment of a chronic illness is in the best
36 interest of the insured for the management or treatment of a chronic illness, provided all of the
37 following apply:

- 38 (1) The medications are covered by the clinical coverage policy.
39 (2) The medications are used for treatment and management of chronic conditions
40 and the medications are subject to refills.
41 (3) The medications are not a Schedule II controlled substance or a Schedule III
42 controlled substance containing hydrocodone.
43 (4) The medications meet all prior authorization criteria specific to the medications
44 at the time of the synchronization request.
45 (5) The medications are of a formulation that can be effectively split over required
46 short fill periods to achieve synchronization.
47 (6) The medications do not have quantity limits or dose optimization criteria or
48 requirements that would be violated in fulfilling synchronization.

(b) When applicable to permit synchronization, the health benefit plan shall apply a prorated daily cost-sharing rate to any medication dispensed by a network pharmacy pursuant to this section. Any dispensing fee shall not be prorated and shall be based on an individual prescription filled or refilled.

(c) The following definitions apply in this section:

(1) Health benefit plan. – As defined in G.S. 58-3-167. The phrase also applies to limited-scope dental and vision insurance.

(2) Health care provider or provider. – As defined in G.S. 58-3-225(a)(4).

(3) Insured. – An individual who is eligible to receive benefits from the health benefit plan.

(4) Insurer. – As defined in G.S. 58-3-225(a)(5)."

SECTION 20.2.(b) This section becomes effective January 1, 2016, and applies to insurance contracts issued, renewed, or amended on or after that date.

House and Senate Differ

House Version

UPDATE ORBIT RETIREMENT SYSTEM

SECTION 21.1. The Department of State Treasurer, Retirement Systems Division, may use funds from receipts up to eight hundred fifty thousand dollars (\$850,000) for the purpose of upgrading the Online Retirement Benefits through Integrated Technology self-service retirement system.

Senate Version

UPDATE ORBIT RETIREMENT SYSTEM

SECTION 21.1. The Department of State Treasurer, Retirement Systems Division, may use funds from receipts up to eight hundred fifty thousand dollars (\$850,000) for the purpose of upgrading the Online Retirement Benefits through Integrated Technology self-service retirement system and those funds are hereby appropriated for that purpose.

House and Senate Differ

House Version

ABLE PROGRAM FUNDING

SECTION 21.2.(a) The Department of State Treasurer, Retirement Systems Division, shall create four full-time equivalent positions to staff an administrative unit within the Division to administer the Achieving a Better Life Experience (ABLE) Program Trust. The unit shall be tasked with administering the ABLE Program to enable contributors to save funds to meet the costs of the qualified disability expenses of eligible individuals.

SECTION 21.2.(b) Notwithstanding any other provision of this act, the funds appropriated in this act for Pending Legislation in the Statewide Reserves shall be reduced by the sum of nine hundred thirty-five thousand dollars (\$935,000) for the 2015-2016 fiscal year and the sum of five hundred ninety-five thousand dollars (\$595,000) for the 2016-2017 fiscal year to establish a Statewide Reserve for the Achieving a Better Life Experience (ABLE) Program.

SECTION 21.2.(c) Of the funds appropriated to the Statewide Reserve for the Achieving a Better Life Experience (ABLE) Program, the Department of State Treasurer,

1 Retirement Systems Division, shall use funds from the reserve established in subsection (b) of this
2 section as follows:

- 3 (1) \$430,000 for the 2015-2016 fiscal year and \$540,000 for the 2016-2017 fiscal
4 year to fund four positions and to support other recurring costs of the ABL
5 Program.
- 6 (2) \$505,000 for the 2015-2016 fiscal year and \$55,000 for the 2016-2017 fiscal year
7 to implement the provisions of the Achieving a Better Life Experience Act,
8 House Bill 556, 2015 Regular Session. Notwithstanding any other provision of
9 law, the appropriation in this subdivision shall not revert to the General Fund
10 unless the ABL Program Trust is not implemented by December 31, 2018.

11 **SECTION 21.2.(d)** This section becomes effective only if House Bill 556, 2015
12 Regular Session, or similar legislation becomes law.

14 **Senate Version**

15 **ACHIEVING A BETTER LIFE EXPERIENCE (ABLE) ACT**

16 **SECTION 21.2.(a)** Chapter 147 of the General Statutes is amended by adding a new
17 Article to read:

18 "Article 6E.

19 "Achieving Better Life Experience Program Trust.

20 **"§ 147-86.50. Policy and definitions.**

21 (a) Policy. – The General Assembly of North Carolina hereby finds and declares that
22 encouraging and assisting individuals and families in saving private funds for the purpose of
23 supporting individuals with disabilities, as authorized in the federal Achieving a Better Life
24 Experience (ABLE) Act, to maintain health, independence, and a better quality of life is fully
25 consistent with and furthers the long-established policy of the State to provide tools that strengthen
26 opportunities for personal economic development and long-term financial planning.

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

- 28 (1) ABLE account. – An account established and owned by an eligible individual
29 and maintained under this Article. A guardian or agent under a power of attorney
30 may act on behalf of an account owner.
- 31 (2) Account owner. – The person who enters into an ABL savings agreement
32 pursuant to the provisions of this Article. The account owner must be the
33 designated beneficiary.
- 34 (3) Board. – The ABL Program Board of Trustees established in G.S. 147-86.52.
- 35 (4) Contracting state. – A state without a qualified ABL program that has entered
36 into a contract with North Carolina to provide residents of the contracting state
37 access to a qualified ABL program.
- 38 (5) Designated beneficiary. – The eligible individual who established and owns an
39 ABL account.
- 40 (6) Disability certification. – Defined in 26 U.S.C. § 259A(e)(2).
- 41 (7) Eligible individual. – Defined in 26 U.S.C. § 259A(e)(1).
- 42 (8) Federal ABL Act. – Division B of the Tax Increase Prevention Act of 2014,
43 P.L. 113-295, the Achieving a Better Life Experience Act of 2014.
- 44 (9) Member of the family. – A brother, sister, stepbrother, or stepsister.
- 45 (10) Qualified disability expense. – As defined in 26 U.S.C. § 529A(e)(5).

46 **"§ 147-86.51. ABL Program.**

47 (a) Achieving a Better Life Experience (ABL) Program Trust. – There is established an
48 ABL Program Trust to be administered by the ABL Program Board of Trustees established in
49 G.S. 146-86.52 to enable contributors to save funds to meet the costs of the qualified disability
50 expenses of eligible individuals.

1 (b) Accounts. – The following provisions apply to an ABLE account:

- 2 (1) An account owner or contributor may establish an account by making an initial
3 contribution to the ABLE Program Trust, signing an application form approved
4 by the Board or its designee, and naming the designated beneficiary. If the
5 contributor is not the account owner, the account owner or the account owner's
6 guardian, trustee, or agent shall also sign the application form.
7 (2) Any person may make contributions to an account after the account is opened.
8 (3) Contributions to an account shall be made only in cash.
9 (4) Contributions to an account shall not exceed maximum contribution limits
10 applicable to program accounts in accordance with the federal ABLE Act.
11 (5) An account owner may change the designated beneficiary of an account to an
12 eligible individual who is a member of the family of the former designated
13 beneficiary. At the direction of an account owner, all or a portion of an account
14 may be transferred to another account of which the designated beneficiary is a
15 member of the family of the designated beneficiary of the transferee account if
16 the transferee account was created pursuant to this section or in accordance with
17 the federal ABLE Act.

18 (c) Contributions. – The Board is authorized to accept, hold, invest, and disburse
19 contributions, and interest earned on such contributions, from contributors as trustees of the ABLE
20 Program Trust. The Board shall hold all contributions to the ABLE Program Trust, and any earnings
21 thereon, in the ABLE Program Trust and shall invest the contributions in accordance with this
22 section. The assets of the ABLE Program Trust shall at all times be preserved, invested, and
23 expended for the purpose of providing benefits to designated beneficiaries and paying reasonable
24 expenses of administering the ABLE Program Trust and investing the assets of the ABLE Program
25 Trust. Nothing in this Article shall be construed to prohibit the Board from accepting, holding, and
26 investing contributions from contributors who reside outside of North Carolina. Neither the
27 contributions to the ABLE Program Trust, nor the earnings thereon, shall be considered State
28 moneys, assets of the State, or State revenue for any purpose. An account or a legal or beneficial
29 interest in an account is not subject to attachment, levy, or execution by a creditor of designated
30 beneficiary.

31 (d) Limitations. – The Board, in administering the ABLE Program Trust, shall ensure each
32 of the following:

- 33 (1) A rollover from an ABLE account shall constitute a qualified rollover if the
34 rollover distribution is in accordance with the federal ABLE Act.
35 (2) A person may make contributions for a taxable year for the benefit of an
36 individual who is an eligible individual for the taxable year to an ABLE account
37 that is established to meet the qualified disability expenses of the designated
38 beneficiary of the account.
39 (3) A designated beneficiary is limited to one ABLE account.
40 (4) An ABLE account may be established only for a designated beneficiary who is a
41 resident of North Carolina or a resident of a contracting state.
42 (5) Except as permitted under the federal ABLE Act, a person does not direct the
43 investment of any contributions to or earnings from the Achieving a Better Life
44 Experience Program more than two times each year.
45 (6) An account or a legal or beneficial interest in an account is not assignable,
46 pledged, or otherwise used to secure or obtain a loan or other advancement.
47 (7) Separate records and accounting are maintained for each ABLE account.
48 (8) Reports are made no less frequently than annually to each ABLE account owner.
49 (9) A trustee or guardian appointed as a signatory of an ABLE account does not have
50 or acquire any beneficial interest in the account and administers the account for
51 the benefit of the designated beneficiary.

1 **"§ 147-86.52. ABLE Program Board of Trustees.**

2 (a) Board. – There is established a Board of Trustees to provide oversight of the general
3 administration and proper operation of the ABLE program and to determine the appropriate
4 investment strategy for the ABLE Program Trust. The Board of Trustees shall consist of the
5 following six members:

- 6 (1) The State Treasurer, ex officio, or his or her designee, as chair.
7 (2) The Commissioner of Banks, ex officio, or his or her designee.
8 (3) The Secretary of the North Carolina Department of Health and Human Services,
9 ex officio, or his or her designee.
10 (4) A person appointed by the Governor having experience in investments and
11 finance.
12 (5) A person appointed by the President Pro Tempore of the Senate having
13 experience in advocacy for the disabled.
14 (6) A person appointed by the Speaker of the House of Representatives that is an
15 immediate family member of an eligible individual or a guardian of an eligible
16 individual.

17 (b) Terms. – The members of the Board, except those members serving in an ex officio
18 capacity, shall be appointed for terms of three years and shall serve until their successors are
19 appointed and qualified. Vacancies are filled in the same manner as the original appointment. No
20 appointed member of the Board may serve longer than any of the following:

- 21 (1) Two consecutive three-year terms.
22 (2) Three consecutive terms of any length, in the event that one or more of the terms
23 is for fewer than three years in duration or the member serves a partial term as a
24 result of filling a vacancy.
25 (3) Eight consecutive years, regardless of term lengths.

26 (c) Duties. – The Board of Trustees is authorized to:

- 27 (1) Delegate the authority to the State Treasurer to develop and perform all functions
28 necessary and desirable to (i) administer the ABLE Program Trust in such a
29 manner as to meet and comply with the requirements of the federal ABLE Act
30 and federal regulations under the act, (ii) implement the investment strategy of
31 the Board, and (iii) provide other services as the Board shall deem necessary to
32 facilitate participation in the ABLE Program Trust.
33 (2) Notwithstanding provisions of Article 3 of Chapter 143 of the General Statutes,
34 engage the services of consultants on a contract basis for rendering professional
35 and technical assistance and advice.
36 (3) Retain the services of auditors, attorneys, investment counseling firms,
37 custodians, or other persons or firms possessing specialized skills or knowledge
38 necessary for the proper administration of investment programs that the Board
39 administers pursuant to this Article.
40 (4) Develop marketing plans and promotional material.
41 (5) Establish the methods by which the funds held in accounts shall be dispersed.
42 (6) Establish the method by which funds shall be allocated to pay for administrative
43 costs.
44 (7) Do all things necessary and proper to carry out the purposes of this act.

45 (d) Investments. – The Board shall determine and document in an investment policy
46 statement an appropriate investment strategy for the ABLE Program Trust containing one or more
47 forms of investments or strategies for investment from which account owners may select. The
48 Board shall authorize the State Treasurer to be responsible for engaging and discharging investment
49 managers and service providers, including contracting and contract monitoring, to implement the
50 investment strategy established by the Board. All amounts maintained in an account shall be
51 invested according to the account owner's election of one or more of the strategies approved by the

1 Board. Each strategy may include a combination of fixed income assets and preferred or common
2 stocks issued by any company incorporated, or otherwise located within or outside the United
3 States, or other appropriate investment instruments to achieve long-term return through a
4 combination of capital appreciation and current income. If the Board approves multiple forms of
5 investment as investment strategy options, transfers of an account owner's accumulated funds shall
6 be permitted among the various approved forms of investments, subject to reasonable restrictions
7 approved by the Board.

8 (e) Discharge of duties by the Board. – The assets of the ABLE Program Trust shall be held
9 in trust for the designated beneficiaries. The assets of the ABLE Program Trust shall at all times be
10 preserved, invested, and expended for the exclusive purpose of providing benefits to designated
11 beneficiaries and paying reasonable expenses of administering the ABLE Program Trust and
12 investing the assets of the ABLE Program Trust. Compliance by the Board with this section must be
13 determined in light of the facts and circumstances existing at the time of the Board's decision or
14 action and not by hindsight. The Board shall discharge its duties with respect to the ABLE Program
15 Trust as follows:

- 16 (1) Solely in the interest of the designated beneficiaries.
- 17 (2) With the care, skill, and caution under the circumstances then prevailing that a
18 prudent person acting in a like capacity and familiar with those matters would
19 use in the conduct of an activity of like character and purpose.
- 20 (3) Impartially, taking into account any differing interests of designated
21 beneficiaries.
- 22 (4) Incurring only costs that are appropriate and reasonable.
- 23 (5) In accordance with a good-faith interpretation of the law governing the ABLE
24 Program Trust.

25 (f) Immunity. – A person serving on the ABLE Board of Trustees shall be immune
26 individually from civil liability for monetary damages, and exempt to the extent covered by
27 insurance, for any act or failure to act arising out of that service except where any of the following
28 apply:

- 29 (1) The person was not acting within the scope of that person's official duties.
- 30 (2) The person was not acting in good faith.
- 31 (3) The person committed gross negligence or willful or wanton misconduct that
32 resulted in the damages or injury.
- 33 (4) The person derived an improper personal financial benefit, either directly or
34 indirectly, from the transaction.

35 (g) Report. – The Board shall submit an annual evaluation of the ABLE savings program
36 and prepare and submit an annual report of such evaluation to the Joint Legislative Oversight
37 Committee on Health and Human Services.

38 (h) Other States. – With consent of the State Treasurer, the Board may enter into agreements
39 with other states to either (i) allow North Carolina residents to participate in a plan operated by a
40 contracting state with a qualified ABLE program or (ii) allow residents of other states to participate
41 in the qualified North Carolina ABLE Program Trust.

42 **"§ 147-86.53. Administration of ABLE Program.**

43 (a) Administration. – The Board may delegate to the State Treasurer the authority to
44 develop and perform all functions necessary and desirable to (i) administer the ABLE Program
45 Trust in such a manner as to meet and comply with the requirements of the Federal ABLE Act and
46 federal regulations under the act, (ii) implement the investment strategy established by the Board,
47 and (iii) provide such other services as the State Treasurer shall deem necessary to facilitate
48 participation in the ABLE Program Trust. The State Treasurer is further authorized to obtain the
49 services of such investment managers, investment advisors, service providers, or program managers
50 as may be necessary for the proper administration, marketing, and investment of the ABLE Program
51 Trust.

1 (b) Disclaimer. – Nothing in this section shall be construed to create any obligation of the
2 State Treasurer, the State, or any agency or instrumentality of the State to guarantee for the benefit
3 of any parent, other interested party, or designated beneficiary the rate of return or other return for
4 any contribution to the ABLE Program Trust and the payment of interest or other return on any
5 contribution to the ABLE Trust Fund.

6 (c) Fees and Costs. – The State Treasurer may establish application, account, and
7 administration fees in an amount not to exceed the amount necessary to offset the costs of the
8 program. The following costs may be paid directly from the ABLE Program Trust:

9 (1) The costs of administration, management, investment, and operation of the
10 ABLE Program Trust.

11 (2) The costs of all actions authorized for the Board.

12 (3) The costs of all actions delegated to the State Treasurer and his or her staff by the
13 Board under this section. Such costs shall be allocated among the designated
14 beneficiaries in such manner as may be prescribed by the Board. The Board shall
15 no less than annually approve a budget and allocation of costs.

16 (d) Means-Tested Programs. – Notwithstanding any other provision of law, an ABLE
17 account shall not be considered a resource for purposes of means-tested State benefits. Distributions
18 for qualified disability expenses shall not be considered income for any State benefits eligibility
19 program that limits eligibility based on income.

20 (e) Claim for Medical Assistance Benefits. – To the extent provided in subsection 26 U.S.C.
21 § 529(f), upon the death of a designated beneficiary, the State shall have a claim for payment from
22 the beneficiary's account in an amount equal to the total medical assistance paid for the designated
23 beneficiary after the establishment of the account. The State may file its claim for repayment from
24 the account with the State Treasurer within 60 days of receiving notice from the State Treasurer of
25 the death of the designated beneficiary. Any remaining funds in the beneficiary's account shall be
26 distributed as provided in the account agreement or distributed to the beneficiary's estate if no other
27 designation is made.

28 (f) Notice of the Death of a Designated Beneficiary. – Within 30 days of the date the State
29 Treasurer receives notice of the death of a designated beneficiary, the State Treasurer shall provide
30 notice of the designated beneficiary's death to the Department of Health and Human Services,
31 Division of Medical Assistance.

32 (g) Notice to Account Owner for Designated Beneficiary Receiving Medicaid. – Notice of
33 the State's right to file a claim against the estate following the death of a designated beneficiary who
34 received medical assistance must be provided to the account owner. The notice shall be on a form
35 prescribed by the Department of Health and Human Services, Division of Medical Assistance, and
36 shall explain:

37 (1) The types of Medicaid payments subject to a claim against the estate.

38 (2) That a claim will not be made if the individual is survived by a legal spouse, a
39 child or children under the age of 21, or a blind or disabled child or children of
40 any age who became blind or disabled before age 21 and still live on the property
41 of the deceased designated beneficiary.

42 (3) That a claim against the estate is limited to specified conditions.

43 (4) That a claim against the estate may be waived in the case of undue hardship and
44 the procedure for claiming an undue hardship.

45 (h) Account information. – The information related to individual ABLE accounts are not
46 public records as defined in Chapter 132 of the General Statutes."

47 **SECTION 21.2.(b)** The Department of Health and Human Services shall provide
48 information and assistance to the Department of State Treasurer and shall enter into a data-sharing
49 agreement with the Department of the State Treasurer for the purpose of the ongoing
50 implementation of this section. The Department of State Treasurer shall consult with other
51 departments as needed.

1 **SECTION 21.2.(c)** The Department of State Treasurer and the Department of Health
2 and Human Services are authorized to adopt rules necessary to implement this section.

3 **SECTION 21.2.(d)** The State Treasurer shall begin accepting contributions authorized
4 under this section when federal regulations regarding the Achieving a Better Life Experience
5 Program, as provided under the Tax Increase Prevention Act of 2014, Pub. L. No. 113-295, have
6 been issued and provide the guidance necessary to implement the Achieving a Better Life
7 Experience Trust Fund Program established in this section. If the federal regulations are materially
8 inconsistent with this section, the Board may delay implementation of this section until a change in
9 this section has been made. If the Board delays implementation, the Board shall provide a written
10 report to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore
11 of the Senate identifying the changes in this section that must be made to be consistent with federal
12 regulation.

13 **SECTION 21.2.(e)** The Board authorized in G.S. 147-86.52 shall be organized
14 immediately after a majority of the members have been qualified or appointed, and have taken the
15 oath of office. The terms for the trustees that are appointed shall be for initial terms to expire June
16 30, 2018.

17 **SECTION 21.2.(f)** This section is effective when it becomes law.
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20 **House and Senate Differ**

21 22 **House Version**

23 **DATA AUDIT**

24 **SECTION 21.3.** Of the funds appropriated to the Department of State Treasurer for the
25 2015-2016 fiscal year for its Information Services account, the sum of three hundred fifty thousand
26 dollars (\$350,000) shall be used by the Department to complete the funding for a data audit to
27 establish a lapse assumption for the valuation of the Fire and Rescue Squad Workers' Pension Fund.
28

29 **Senate Version**

30 **AUDIT OF FIREFIGHTERS' AND RESCUE SQUAD WORKERS' PENSION DATA**

31 **SECTION 21.3.** Of the funds allocated to the line item for Retirement for Fire and
32 Rescue Squad Workers for the 2015-2016 fiscal year, the Department of State Treasurer may use up
33 to the sum of five hundred fifty-nine thousand dollars (\$559,000) to fund an audit of the
34 employment and membership history of the members of the Firefighters' and Rescue Squad
35 Workers' Pension Fund, load the results of the audit into the ORBIT system, and update data
36 collection and online processes involving agency turnaround documents as recommended by the
37 Program Evaluation Division of the General Assembly.
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40 **House and Senate Differ**

41 42 **House Version**

43 **WAYNESVILLE ADMINISTRATIVE LAW JUDGE**

44 **SECTION 22.1.** The Office of Administrative Hearings shall identify office space for
45 the administrative law judge to be located in the Town of Waynesville. In selecting office space, the
46 Office of Administrative Hearings will only consider locations that do not impose a financial
47 burden to the State. The Office is authorized to identify other State-owned properties in the town
48 and work with State officials to locate office space that satisfies the requirements of this section.
49 The Office of Administrative Hearings may provide support staff for the administrative law judge to

1 be located in the Town of Waynesville; provided, there is no financial burden to the State as a
2 result.
3

4 **Senate Version**

5 **WAYNESVILLE ADMINISTRATIVE LAW JUDGE/RULES REVIEW COMMISSION** 6 **COUNSEL**

7 **SECTION 22.1.(a)** The Office of Administrative Hearings shall identify office space
8 for the administrative law judge to be located in the Town of Waynesville. In selecting office space,
9 the Office of Administrative Hearings shall only consider locations that do not impose an additional
10 financial burden to the State. The Office is authorized to identify other State-owned properties in
11 the town and work with State officials to locate office space that satisfies the requirements of this
12 section. The Office of Administrative Hearings may provide support staff for the administrative law
13 judge to be located in the Town of Waynesville; provided, there is no additional financial burden to
14 the State as a result.

15 **SECTION 22.1.(b)** G.S. 143B-30.1 is amended by adding a new subsection to read:
16 "(g) In the discretion of the Commission, G.S. 114-2.3 and G.S. 147-17 (a) through (c) shall
17 not apply to the Commission if the Commission is being sued by another agency, institution,
18 department, bureau, board, or commission of the State, whether such body is created by the
19 Constitution or by statute. The chairman, upon approval of a majority of the Commission, may
20 retain private counsel to represent the Commission to be paid with available State funds to defend
21 such litigation either independently or in cooperation with the Department of Justice. If private
22 counsel is to be so retained to represent the Commission, the chairman shall designate lead counsel
23 who shall possess final decision-making authority with respect to the representation, counsel, or
24 service for the Commission. Other counsel for the Commission shall, consistent with the Rules of
25 Professional Conduct, cooperate with such designated lead counsel."
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28 **House and Senate Differ**

30 **House Version**

31 **SYMPHONY CHALLENGE GRANT**

32 **SECTION 23.1.(a)** Of the funds appropriated in this act to the Office of State Budget
33 and Management, Special Appropriations, the sum of two million dollars (\$2,000,000) in
34 nonrecurring funds for the 2015-2016 fiscal year and the sum of two million dollars (\$2,000,000) in
35 nonrecurring funds for the 2016-2017 fiscal year shall be allocated to the North Carolina Symphony
36 in accordance with this section. It is the intent of the General Assembly that the North Carolina
37 Symphony raise at least nine million dollars (\$9,000,000) in non-State funds for the 2015-2016
38 fiscal year and at least nine million dollars (\$9,000,000) in non-State funds for the 2016-2017 fiscal
39 year. The North Carolina Symphony cannot use funds transferred from the organization's
40 endowment to its operating budget to achieve the fund-raising targets set out in subsections (b) and
41 (c) of this section.

42 **SECTION 23.1.(b)** For the 2015-2016 fiscal year, the North Carolina Symphony shall
43 receive allocations from the Office of State Budget and Management as follows:

- 44 (1) Upon raising the initial sum of four million dollars (\$4,000,000) in non-State
45 funding, the North Carolina Symphony shall receive the sum of six hundred
46 thousand dollars (\$600,000).
- 47 (2) Upon raising an additional sum of two million dollars (\$2,000,000) in non-State
48 funding for a total amount of six million dollars (\$6,000,000) in non-State funds,
49 the North Carolina Symphony shall receive the sum of seven hundred thousand
50 dollars (\$700,000).

- (3) Upon raising an additional sum of three million dollars (\$3,000,000) in non-State funding for a total amount of nine million dollars (\$9,000,000) in non-State funds, the North Carolina Symphony shall receive the final sum of seven hundred thousand dollars (\$700,000) in the 2015-2016 fiscal year.

SECTION 23.1.(c) For the 2016-2017 fiscal year, the North Carolina Symphony shall receive allocations from the Office of State Budget and Management as follows:

- (1) Upon raising the initial sum of four million dollars (\$4,000,000) in non-State funding, the North Carolina Symphony shall receive the sum of six hundred thousand dollars (\$600,000).
- (2) Upon raising an additional sum of two million dollars (\$2,000,000) in non-State funding for a total amount of six million dollars (\$6,000,000) in non-State funds, the North Carolina Symphony shall receive the sum of seven hundred thousand dollars (\$700,000).
- (3) Upon raising an additional sum of three million dollars (\$3,000,000) in non-State funding for a total amount of nine million dollars (\$9,000,000) in non-State funds, the North Carolina Symphony shall receive the final sum of seven hundred thousand dollars (\$700,000) in the 2016-2017 fiscal year.

Senate Version

SYMPHONY CHALLENGE GRANT

SECTION 23.1.(a) Of the funds appropriated in this act to the Office of State Budget and Management, Special Appropriations, the sum of one million five hundred thousand dollars (\$1,500,000) in recurring funds for the 2015-2016 fiscal year and the sum of one million five hundred thousand dollars (\$1,500,000) in recurring funds for the 2016-2017 fiscal year shall be allocated to the North Carolina Symphony in accordance with this section. It is the intent of the General Assembly that the North Carolina Symphony raise at least eight million dollars (\$8,000,000) in non-State funds for the 2015-2016 fiscal year and at least eight million dollars (\$8,000,000) in non-State funds for the 2016-2017 fiscal year. The North Carolina Symphony shall not use funds transferred from the organization's endowment to its operating budget to achieve the fund-raising targets set out in subsections (b) and (c) of this section.

SECTION 23.1.(b) For the 2015-2016 fiscal year, the North Carolina Symphony shall receive allocations from the Office of State Budget and Management as follows:

- (1) Upon raising the initial sum of four million dollars (\$4,000,000) in non-State funding, the North Carolina Symphony shall receive the sum of five hundred thousand dollars (\$500,000).
- (2) Upon raising an additional sum of two million dollars (\$2,000,000) in non-State funding for a total amount of six million dollars (\$6,000,000) in non-State funds, the North Carolina Symphony shall receive an additional sum of five hundred thousand dollars (\$500,000).
- (3) Upon raising an additional sum of two million dollars (\$2,000,000) in non-State funding for a total sum of eight million dollars (\$8,000,000) in non-State funds, the North Carolina Symphony shall receive the final sum of five hundred thousand dollars (\$500,000) for the 2015-2016 fiscal year.

SECTION 23.1.(c) For the 2016-2017 fiscal year, the North Carolina Symphony shall receive allocations from the Office of State Budget and Management as follows:

- (1) Upon raising the initial sum of four million dollars (\$4,000,000) in non-State funding, the North Carolina Symphony shall receive the sum of five hundred thousand dollars (\$500,000).
- (2) Upon raising an additional sum of two million dollars (\$2,000,000) in non-State funding for a total amount of six million dollars (\$6,000,000) in non-State funds,

- 1 the North Carolina Symphony shall receive an additional sum of five hundred
2 thousand dollars (\$500,000).
- 3 (3) Upon raising an additional sum of two million dollars (\$2,000,000) in non-State
4 funding for a total sum of eight million dollars (\$8,000,000) in non-State funds,
5 the North Carolina Symphony shall receive the final sum of five hundred
6 thousand dollars (\$500,000) for the 2016-2017 fiscal year.
7
8

9 House Only

10 HOSPITAL MEDICAL RESIDENCIES

11 **SECTION 23.2.** It is the intent of the General Assembly to appropriate funds in the
12 2016-2017 fiscal year to be allocated if Cape Fear Valley Hospital is granted a rural reclassification
13 by the federal government, and the Centers for Medicare and Medicaid Services grants additional
14 residency slots to be reimbursed with Graduate Medical Education residency payments. The Office
15 of State Budget and Management shall monitor whether the reclassification and additional
16 residency slots described in this section have been achieved by June 30, 2016.
17
18

19 Senate Only

20 STUDY TRANSITION TO RENT-BASED MODEL FOR STATE-OWNED FACILITIES

21 **SECTION 23.3.** The Office of State Budget and Management shall study charging
22 State agencies rent to cover the cost of facility management, maintenance, and related costs that are
23 attributable to those agencies. The Office of State Budget and Management shall report the results
24 of the study to the Joint Legislative Oversight Committee on General Government no later than
25 March 1, 2016. The study shall examine all of the following:

- 26 (1) Making receipt-supported all Department of Administration functions that
27 support the management and maintenance of State-owned facilities.
- 28 (2) An appropriate rate to charge agencies for facility management, maintenance,
29 and related costs, and the basis for determining that rate.
- 30 (3) Logistical, legal, and budgetary matters that would need to be resolved before the
31 rent-based model could be implemented.
- 32 (4) The desirability of using proceeds from lease payments for financing future
33 building repairs and needs of the State. Any analysis involving the securitizing
34 funds shall be undertaken in consultation with the State Treasurer.
- 35 (5) Any other matter the Office of State Budget and Management deems relevant.
36
37

38 House and Senate Differ

40 House Version

41 ESTABLISH DEPARTMENT OF MILITARY AND VETERANS AFFAIRS

42 CREATION OF DEPARTMENT

43 **SECTION 24.1.(a)** The Department of Military and Veterans Affairs is established as a
44 new executive department. All functions, powers, duties, and obligations vested in the following
45 agencies are transferred to, vested in, and consolidated within the Department of Military and
46 Veterans Affairs by a Type I transfer, as defined in G.S. 143A-6:

- 47 (1) The following components of the Department of Administration:
48 a. The Veterans' Affairs Commission.
49

- b. The Governor's Jobs for Veterans Committee.
c. The Division of Veterans Affairs.
(2) The North Carolina Military Affairs Commission in the Office of the Governor.
SECTION 24.1.(b) Chapter 143B of the General Statutes is amended by adding a new

Article to read:

"Article 14.

"Department of Military and Veterans Affairs.

"Part 1. General Provisions.

"§ 143B-1210. Organization.

(a) There is established the Department of Military and Veterans Affairs. The head of the Department of Military and Veterans Affairs is the Secretary of Military and Veterans Affairs, who shall be known as the Secretary.

(b) The powers and duties of the deputy secretaries and the divisions and directors of the Department shall be subject to the direction and control of the Secretary of Military and Veterans Affairs.

"§ 143B-1211. Power and duties of the Department of Military and Veterans Affairs.

It shall be the duty of the Department of Military and Veterans Affairs to do all of the following:

- (1) Provide active outreach to the U.S. Department of Defense and the U.S. Department of Homeland Security and their associated establishments in North Carolina in order to support the military installations and activities in the State, to enhance North Carolina's current military-friendly environment and foster and promote business, technology, transportation, education, economic development, and other efforts in support of the mission, execution, and transformation of the U.S. government military and national defense activities located in the State.
- (2) Promote the industrial and economic development of localities included in or adjacent to U.S. government military and national defense activities and those of the State.
- (3) Provide technical assistance and coordination between the State, its political subdivisions, and the U.S. military and national defense activities within the State of North Carolina.
- (4) Award grants to local governments, State and federal agencies, and private entities at the direction of the Secretary. The number of grants awarded and the level of funding of each grant for each fiscal year shall be contingent upon and determined by funds appropriated for that purpose by the General Assembly.
- (5) Provide active outreach to the U.S. Department of Veterans Affairs, the veterans service organizations, and the veterans community in North Carolina to support and assist North Carolina's veterans in identifying and obtaining the services, assistance, and support to which they are entitled, including monitoring efforts to provide services to veterans, newly separating service members, and their immediate family members and disseminating relevant materials.
- (6) Monitor and enhance efforts to provide assistance and support for veterans living in North Carolina and members of the North Carolina National Guard and North Carolina residents in the Armed Forces Reserves not in active federal service in the areas of (i) medical care, (ii) mental health and rehabilitative services, (iii) housing, (iv) homelessness prevention, (v) job creation, and (vi) education.
- (7) Seek and receive monies from any source, including federal funds, gifts, grants, and devises, which shall be expended for the purposes designated in this Article.
- (8) Provide active outreach, coordination, formal training and standards, and official certification to localities of the State and veterans support organizations in the development, implementation, and review of local veterans services programs as part of the State program.

- (9) Work with veterans services organizations and counterparts in other states to monitor and encourage the timely and accurate processing of veterans' benefit requests by the U.S. Department of Veterans Affairs, including requests for service connected to health care, mental health care, and disability payments.
- (10) Manage and maintain the State's veterans nursing homes and cemeteries and their associated assets to the standard befitting those who have worn the uniform of the Armed Forces according to federal guidelines. Plan for expansion and grow the capacity of these facilities and any new facilities as required pending the availability of designated funds.
- (11) Manage and maintain the State's Scholarships for Children of Wartime Veterans in accordance with Part 2 of Article 14 of Chapter 143B of the General Statutes and in support of the Veterans' Affairs Commission.
- (12) Provide administrative, organizational, and funding support to the NC Military Affairs Commission and the Governor's Working Group for Veterans.
- (13) To work with federal officials to obtain additional federal resources and coordinate veterans policy development and information exchange.
- (14) To work with the appropriate heads of the principal departments to coordinate working relationships between State agencies and take all actions necessary to ensure that available federal and State resources are directed toward assisting veterans and addressing all issues of mutual concern to the State and the Armed Forces of the United States, including, but not limited to, quality of life issues unique to North Carolina's military personnel and their families, the quality of educational opportunities for military children, the future of federal impact aid, preparedness, public safety and security concerns, transportation needs, alcoholic beverage law enforcement, substance abuse, social service needs, possible expansion and growth of military facilities in the State, and intergovernmental support agreements with state and local governments.
- (15) To educate the public on veterans and defense issues in coordination with applicable State agencies.
- (16) To adopt rules and procedures for the implementation of this section.
- (17) To assist veterans, their families, and dependents in the presentation, processing, proof, and establishment of such claims, privileges, rights, and benefits as they may be entitled to under federal, State, or local laws, rules, and regulations.
- (18) To aid persons in active military service and their dependents with problems arising out of that service that come reasonably within the purview of the Department's program of assistance.
- (19) To collect data and information as to the facilities and services available to veterans, their families, and dependents and to cooperate with agencies furnishing information or services throughout the State in order to inform such agencies regarding the availability of (i) education, training, and retraining facilities; (ii) health, medical, rehabilitation, and housing services and facilities; (iii) employment and reemployment services; (iv) provisions of federal, State, and local laws, rules, and regulations affording rights, privileges, and benefits to veterans, their families, and dependents, and in respect to such other matters of similar, related, or appropriate nature not herein set out.
- (20) To establish such field offices, facilities, and services throughout the State as may be necessary to carry out the purposes of this Article.
- (21) To cooperate, as the Department deems appropriate, with governmental, private, and civic agencies and instrumentalities in securing services or benefits for veterans, their families, dependents, and beneficiaries.

1 (22) To enter into any contract or agreement with any person, business, governmental
2 agency, or other entity in furtherance of the purposes of this Article.

3 (23) To train, assist, and provide guidance to the employees of any county, city, town,
4 or Indian tribe who are engaged in veterans service. Authority is hereby granted
5 to the governing body of any county, city, or town to appropriate such amounts
6 as it may deem necessary to provide a veterans service program and the
7 expenditure of such funds is hereby declared to be for a public purpose; such
8 program shall be operated in affiliation with this Department as set forth above
9 and in compliance with Department policies and procedures.

10 **"§ 143B-1212. Personnel of the Department of Military and Veterans Affairs.**

11 Notwithstanding G.S. 114-2.3, the Secretary of Military and Veterans Affairs shall have the
12 power to appoint all employees, including consultants and legal counsel, necessary to carry out the
13 powers and duties of the office. These employees shall be subject to the North Carolina Human
14 Resources Act, except that employees in positions designated as exempt under G.S. 126-5(d)(1) are
15 not subject to the Act, in accordance with the provisions of that section.

16 **"§ 143B-1213. Definitions.**

17 Except where provided otherwise, the following definitions apply in this Chapter:

18 (1) Department. – The Department of Military and Veterans Affairs.

19 (2) Secretary. – The Secretary of Military and Veterans Affairs.

20 (3) Veteran. – One of the following, as applicable:

21 a. For qualifying as a voting member of the State Board of Veterans Affairs
22 and as the State Director of Veterans Affairs, a person who served
23 honorably during a period of war as defined in Title 38, United States
24 Code.

25 b. For entitlement to the services of the Department of Military and
26 Veterans Affairs, any person who may be entitled to any benefits or rights
27 under the laws of the United States by reason of service in the Armed
28 Forces of the United States."

30 **CREATION OF STATUTORY PARTS AND RECODIFICATION AND REPEAL OF**
31 **AFFECTED STATUTES**

32 **SECTION 24.1.(c)** **Veterans' Affairs Commission.** – Part 13 of Article 9 of Chapter
33 143B of the General Statutes is recodified as Part 2 of Article 14 of Chapter 143B of the General
34 Statutes and renumbered as G.S. 143B-1220 through G.S. 143B-1222. G.S. 165-19 through
35 G.S. 165-22.1 are recodified under that Part as G.S. 143B-1223 through G.S. 143B-1227.

36 **SECTION 24.1.(d)** **Governor's Jobs for Veterans Committee.** – Part 19 of Article 9 of
37 Chapter 143B of the General Statutes is recodified as Part 3 of Article 14 of Chapter 143B of the
38 General Statutes and renumbered as G.S. 143B-1235 and G.S. 143B-1236.

39 **SECTION 24.1.(e)** **Division of Veterans Affairs.** – G.S. 165-1 through G.S. 165-4,
40 G.S. 165-6, 165-8, and 165-10 are repealed. G.S. 165-9, 165-11, and 165-11.1 are recodified under
41 Part 1 of Article 14 of Chapter 143B of the General Statutes as G.S. 143B-1214 through
42 G.S. 143B-1216, respectively.

43 **SECTION 24.1.(f)** **Minor Veterans and Minor Spouses of Veterans.** – Article 2 of
44 Chapter 165 of the General Statutes is recodified as Part 4 of Article 14 of Chapter 143B of the
45 General Statutes, G.S. 143B-1240 through G.S. 143B-1244. Article 3 of Chapter 165 of the General
46 Statutes is recodified as Part 5 of Article 14 of Chapter 143B of the General Statutes,
47 G.S. 143B-1247 and G.S. 143B-1248.

48 **SECTION 24.1.(g)** **Veterans Recreation Authorities Law.** – Article 5 of Chapter 165 of
49 the General Statutes is recodified as Part 6 of Article 14 of Chapter 143B of the General Statutes,
50 G.S. 143B-1250 through G.S. 143B-1265.

SECTION 24.1.(h) Powers of Attorney. – Article 6 of Chapter 165 of the General Statutes is recodified as Part 7 of Article 14 of Chapter 143B of the General Statutes, G.S. 143B-1270 through G.S. 143B-1273.

SECTION 24.1.(i) Miscellaneous Provisions. – Article 7 of Chapter 165 of the General Statutes is recodified as Part 8 of Article 14 of Chapter 143B of the General Statutes, G.S. 143B-1275 through G.S. 143B-1277.

SECTION 24.1.(j) Employment Assistance. – Article 7A of Chapter 165 of the General Statutes is recodified as Part 9 of Article 14 of Chapter 143B of the General Statutes, G.S. 143B-1280 through G.S. 143B-1285.

SECTION 24.1.(k) State Veterans Home. – Article 8 of Chapter 165 of the General Statutes is recodified as Part 10 of Article 14 of Chapter 143B of the General Statutes, G.S. 143B-1290 through G.S. 143B-1300.

SECTION 24.1.(l) North Carolina Military Affairs Commission. – Chapter 127C of the General Statutes is recodified as Part 11 of Article 14 of Chapter 143B of the General Statutes, G.S. 143B-1310 through G.S. 143B-1314.

CONFORMING CHANGES

SECTION 24.1.(m) G.S. 20-79.4 reads as rewritten:
"§ 20-79.4. Special registration plates.

...

(a2) Special Plates Based Upon Military Service. – The ~~Division of Veterans Affairs~~ Department of Military and Veterans Affairs shall be responsible for verifying and maintaining all verification documentation for all special plates that are based upon military service. The ~~Division~~ Department shall not issue a special plate that is based on military service unless the application is accompanied by a motor vehicle registration (MVR) verification form signed by the ~~Director of the Division of Veterans Affairs~~ Secretary of Military and Veterans Affairs, or the ~~Director's~~ Secretary's designee, showing that the ~~Division of Veterans Affairs~~ Department of Military and Veterans Affairs has verified the applicant's credentials and qualifications to hold the special plate applied for.

- (1) Unless a qualifying condition exists requiring annual verification, no additional verification shall be required to renew a special registration plate either in person or through an online service.
- (2) If the ~~Division of Veterans Affairs~~ Department of Military and Veterans Affairs determines a special registration plate has been issued due to an error on the part of the Division of Motor Vehicles, the plate shall be recalled and canceled.
- (3) If the ~~Division of Veterans Affairs~~ Department of Military and Veterans Affairs determines a special registration plate has been issued to an applicant who falsified documents or has fraudulently applied for the special registration plate, the Division of Motor Vehicles shall revoke the special plate and take appropriate enforcement action.

...."

SECTION 24.1.(n) G.S. 20-79.5 reads as rewritten:
"§ 20-79.5. Special registration plates for elected and appointed State government officials.

(a) Plates. – The State government officials listed in this section are eligible for a special registration plate under G.S. 20-79.4. The plate shall bear the number designated in the following table for the position held by the official.

Position	Number on Plate
Governor	1
Lieutenant Governor	2
...	
<u>Secretary of Military and Veterans Affairs</u>	<u>22</u>

...."

SECTION 24.1.(o) G.S. 47-113.2 reads as rewritten:

"§ 47-113.2. Restricting access to military discharge documents.

...

(b) Definitions:

(1) Authorized party. – Four categories of authorized parties are recognized with respect to access to military discharge documents under subsection (e) of this section:

...

c. Authorized agents of the ~~Division of Veterans Affairs~~, Department of Military and Veterans Affairs, the United States Department of Veterans Affairs, the Department of Defense, or a court official with an interest in assisting the subject or the deceased subject's beneficiaries to obtain a benefit.

...

(h) The North Carolina Association of Registers of Deeds and the ~~Division of Veterans Affairs~~ Department of Military and Veterans Affairs shall adopt ~~before January 1, 2004~~, such request forms and associated rules as are required to implement the provisions of this section. All filing offices shall use the forms and comply with the rules, as adopted.

...."

SECTION 24.1.(p) G.S. 65-43.4(b) reads as rewritten:

"(b) A disinterment may be permitted, at no cost to the State, when the following conditions are satisfied:

- (1) The disinterment is requested in writing and filed with the Program Director of the veterans cemeteries, the Assistant Secretary for Veterans Affairs, or the ~~Division of Veterans Affairs~~; Department of Military and Veterans Affairs;
- (2) The request for disinterment contains the notarized signature of the nearest of kin, such as surviving spouse. If the spouse is deceased, the signatures of a majority of the surviving children of legal age will be required;
- (3) The funeral director has obtained all necessary permits for disinterment."

SECTION 24.1.(q) G.S. 65-43.5 reads as rewritten:

"§ 65-43.5. Reinterment.

(a) The remains of a qualified veteran or the remains of an eligible family member may be moved to a State veterans cemetery for reinterment, at no cost to the State, when the following conditions are satisfied:

...

(2) The reinterment is requested in writing and filed with the Program Manager of veterans cemeteries, the Assistant Secretary for Veterans Affairs, or the ~~Division of Veterans Affairs~~; and Department of Military and Veterans Affairs;

...."

SECTION 24.1.(r) G.S. 93B-15.1(c1) reads as rewritten:

"(c1) Each occupational licensing board shall publish a document that lists the specific criteria or requirements for licensure, registration, or certification by the board, with a description of the criteria or requirements that are satisfied by military training or experience as provided in this section, and any necessary documentation needed for obtaining the credit or satisfying the requirement. The information required by this subsection shall be published on the occupational licensing board's Web site and the Web site of the ~~North Carolina Division of Veterans Affairs~~. Department of Military and Veterans Affairs."

SECTION 24.1.(s) G.S. 116-209.23 reads as rewritten:

"§ 116-209.23. Inconsistent laws inapplicable.

1 Insofar as the provisions of this Article are inconsistent with the provisions of any general or
2 special laws, or parts thereof, the provisions of this Article shall be controlling, except that no
3 provision of the 1971 amendments to this Article shall apply to scholarships for children of war
4 veterans as set forth in ~~Article 4 of Chapter 165, Part 2 of Article 14 of Chapter 143B of the General~~
5 Statutes, as amended."

6 **SECTION 24.1.(t)** G.S. 116B-7(b) reads as rewritten:

7 "(b) An amount specified in the Current Operations Appropriations Act shall be transferred
8 annually from the Escheat Fund to the Department of ~~Administration~~ Military and Veterans Affairs
9 to partially fund the program of Scholarships for Children of War Veterans established by ~~Article 4~~
10 ~~of Chapter 165, Part 2 of Article 14 of Chapter 143B of the General Statutes.~~ Those funds may be
11 used only for residents of this State who (i) are worthy and needy as determined by the Department
12 of ~~Administration~~ Military and Veterans Affairs and (ii) are enrolled in public institutions of higher
13 education of this State."

14 **SECTION 24.1.(u)** G.S. 126-2(b1)(5) reads as rewritten:

15 "(b1) The Commission shall consist of nine members, appointed as follows:

16 ...

17 (5) One member who is a veteran of the Armed Forces of the United States
18 appointed by the Governor upon the nomination of the ~~Veterans~~ Veterans' Affairs
19 Commission and who is a State employee subject to this Chapter serving in a
20 nonexempt supervisory position. The member may not be a human resources
21 professional."

22 **SECTION 24.1.(v)** G.S. 126-5(d)(1) is amended by adding a new sub-subdivision to
23 read:

24 "(d) (1) Exempt Positions in Cabinet Department. – Subject to the provisions of this
25 Chapter, which is known as the North Carolina Human Resources Act, the
26 Governor may designate a total of 1,500 exempt positions throughout the
27 following departments and offices:
28 a. Department of Administration.
29 b. Department of Commerce.
30 c. Repealed by Session Laws 2012-83, s. 7, effective June 26, 2012, and by
31 Session Laws 2012-142, s. 25.2E(a), effective January 1, 2013.
32 d. Department of Public Safety.
33 e. Department of Cultural Resources.
34 f. Department of Health and Human Services.
35 g. Department of Environment and Natural Resources.
36 h. Department of Revenue.
37 i. Department of Transportation.
38 j. Repealed by Session Laws 2012-83, s. 7, effective June 26, 2012, and by
39 Session Laws 2012-142, s. 25.2E(a), effective January 1, 2013.
40 k. Office of Information Technology Services.
41 l. Office of State Budget and Management.
42 m. Office of State Human Resources.
43 n. Department of Military and Veterans Affairs."

44 **SECTION 24.1.(w)** G.S. 127C-1, as recodified by subsection (l) of this section, reads
45 as rewritten:

46 **"§ 143B-1310. Commission established; purpose; transaction of business.**

47 (a) Establishment. – There is established the North Carolina Military Affairs Commission.
48 The Commission shall be established within the ~~Office of the Governor. The Department of~~
49 ~~Commerce is responsible for organizational, budgetary, and administrative purposes.~~ Department of
50 Military and Veterans Affairs.

(b) Purpose. – The Commission shall provide advice, counsel, and recommendations to ~~the Governor, the General Assembly, the Secretary of Commerce, Military and Veterans Affairs,~~ and other State agencies on initiatives, programs, and legislation that will continue and increase the role that North Carolina's military installations, the National Guard, and Reserves play in America's defense strategy and the economic health and vitality of the State. The Commission is authorized ~~to do all of the following, as delegated by the Secretary of Military and Veterans Affairs:~~

(c) Transaction of Business. – The Commission shall meet, at a minimum, at least once during each quarter and shall provide a report on military affairs to the ~~Governor~~ Secretary of Military and Veterans Affairs and to the General Assembly at least every six months. Prior to the start of a Regular Session of the General Assembly, the Commission shall report to the General Assembly with recommendations, if any, for legislation. Priority actions or issues may be submitted at any time.

...."

SECTION 24.1.(x) G.S. 127C-2(h), as recodified by subsection (l) of this section, reads as rewritten:

"(h) The initial meeting of the Commission shall be within 30 days of the effective date of this act at a time and place to be determined by the Secretary of Commerce. The first order of business at the initial meeting of the Commission shall be the adoption of bylaws and establishment of committees, after which the Commission shall meet upon the call of the Chairman ~~or the Military Advisor within the Office of the Governor or the Secretary of the Department of Military and Veterans Affairs.~~ The members shall receive no compensation for attendance at meetings, except a per diem expense reimbursement. Members of the Commission who are not officers or employees of the State shall receive reimbursement for subsistence and travel expenses at rates set out in G.S. 138-5 from funds made available to the Commission. Members of the Commission who are officers or employees of the State shall be reimbursed for travel and subsistence at the rates set out in G.S. 138-6 from funds made available to the Commission. The Department of ~~Commerce~~ Military and Veterans Affairs shall use funds within its budget for the per diem, subsistence, and travel expenses authorized by this subsection."

SECTION 24.1.(y) G.S. 127C-3, as recodified by subsection (l) of this section, is repealed.

SECTION 24.1.(z) G.S. 127C-5, as recodified by subsection (l) of this section, reads as rewritten:

"§ 143B-1314. Protection of sensitive documents.

(a) In carrying out any purpose set out in ~~G.S. 127C-1(b),~~ G.S. 143B-1310(b), the Commission and the Department of ~~Commerce~~ Military and Veterans Affairs may share documents and discussions protected from disclosure under G.S. 132-1.2 and G.S. 143-318.11 with other public bodies. Any information shared under this subsection shall be confidential and exempt from Chapter 132 of the General Statutes to the same extent that it is confidential in the possession of the Commission or the Department.

(b) In carrying out any purpose set out in ~~G.S. 127C-1(b),~~ G.S. 143B-1310(b), the Commission and the Department of ~~Commerce~~ Military and Veterans Affairs may share documents and discussions protected from disclosure under G.S. 132-1.2 and G.S. 143-318.11 with any third party in its discretion. Any information shared under this subsection shall be shared under an agreement to keep the information confidential to the same extent that it is confidential in the possession of the Commission or the Department."

SECTION 24.1.(aa) G.S. 143B-6 is amended by adding a new subdivision to read:

"§ 143B-6. Principal departments.

In addition to the principal departments enumerated in the Executive Organization Act of 1971, all executive and administrative powers, duties, and functions not including those of the General Assembly and its agencies, the General Court of Justice and the administrative agencies created

1 pursuant to Article IV of the Constitution of North Carolina, and higher education previously vested
2 by law in the several State agencies, are vested in the following principal departments:

3 ...
4 (12) Department of Military and Veterans Affairs."

5 **SECTION 24.1.(bb)** G.S. 143B-399, as recodified and renumbered by subsection (c) of
6 this section, reads as rewritten:

7 **"§ 143B-1220. Veterans' Affairs Commission – creation, powers and duties.**

8 There is hereby created the Veterans' Affairs Commission of the Department of ~~Administration~~
9 of Military and Veterans Affairs. The Veterans' Affairs Commission shall have the following
10 functions and ~~duties~~, as delegated by the Secretary of Military and Veterans Affairs:

- 11 (1) To advise the ~~Governor~~ Secretary of Military and Veterans Affairs on matters
12 relating to the affairs of veterans in North Carolina;
- 13 (2) To maintain a continuing review of the operation and budgeting of existing
14 programs for veterans and their dependents in the State and to make any
15 recommendations to the ~~Governor~~ Secretary of Military and Veterans Affairs for
16 improvements and additions to such matters to which the ~~Governor~~ Secretary
17 shall give due consideration;
- 18 (3) ~~To serve collectively as a liaison between the Division of Veterans Affairs and~~
19 ~~the veterans organizations represented on the Commission;~~
- 20 (4) To promulgate rules and regulations concerning the awarding of scholarships for
21 children of North Carolina veterans as provided by ~~Article 4 of Chapter 165 of~~
22 ~~the General Statutes of North Carolina.~~ this Article. The Commission shall make
23 rules and regulations consistent with the provisions of this ~~Chapter~~ Article. All
24 rules and regulations not inconsistent with the provisions of this Chapter
25 heretofore adopted by the State Board of Veterans' Affairs shall remain in full
26 force and effect unless and until repealed or superseded by action of the ~~Veterans~~
27 Veterans' Affairs Commission. All rules and regulations adopted by the
28 Commission shall be enforced by the ~~Division of Veterans' Affairs;~~ Department
29 of Military and Veterans Affairs;
- 30 (4a) To promulgate rules concerning the awarding of the North Carolina Services
31 Medal to all veterans who have served in any period of war as defined in 38
32 U.S.C. § 101. The award shall be self-financing; those who wish to be awarded
33 the medal shall pay a fee to cover the expenses of producing the medal and
34 awarding the medal. All rules adopted by the Commission with respect to the
35 North Carolina Services Medal shall be implemented and enforced by the
36 ~~Division of Veterans' Affairs;~~ Department of Military and Veterans Affairs; and
- 37 (5) To advise the ~~Governor~~ Secretary on any matter the ~~Governor~~ Secretary may
38 refer to it."

39 **SECTION 24.1.(cc)** G.S. 143B-400, as recodified and renumbered by subsection (c) of
40 this section, reads as rewritten:

41 **"§ 143B-1221. Veterans' Affairs Commission – members; selection; quorum; compensation.**

42 The Veterans' Affairs Commission of the Department of ~~Administration~~ Military and Veterans
43 Affairs shall consist of one voting member from each congressional district, all of whom shall be
44 veterans, appointed by the Governor for four-year terms. In making these appointments, the
45 Governor shall insure that both major political parties will be continuously represented on the
46 Veterans' Affairs Commission.

47 The initial members of the Commission shall be the appointed members of the current Veterans'
48 Affairs Commission who shall serve for the remainder of their current terms and six additional
49 members appointed by the Governor for terms expiring June 30, 1981. Thereafter, all members shall
50 be appointed for terms of four years. Any appointment to fill a vacancy on the Commission created
51 by the resignation, dismissal, death or disability of a member shall be for the balance of the

unexpired term. The Governor shall have the power to remove any member of the Commission in accordance with provisions of G.S. 143B-13.

In the event that more than 11 congressional districts are established in the State, the Governor shall on July 1 following the establishment of such additional congressional districts appoint a member of the Commission from that congressional district. If on July 1, 1977, or at any time thereafter due to congressional redistricting, two or more members of the Veterans' Affairs Commission shall reside in the same congressional district then such members shall continue to serve as members of the Commission for a period equal to the remainder of their current terms on the Commission provided that upon the expiration of said term or terms the Governor shall fill such vacancy or vacancies in such a manner as to insure that as expeditiously as possible there is one member of the Veterans' Affairs Commission who is a resident of each congressional district in the State.

The Governor shall designate from the membership of the Commission a chairman and vice-chairman of the Commission who shall serve at the pleasure of the Governor. The Secretary of the Department of ~~Administration~~ Military and Veterans Affairs or his designee shall serve as secretary of the Commission.

Members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with provisions of G.S. 138-5.

A majority of the Commission shall constitute a quorum for the transaction of business.

The Veterans' Affairs Commission shall meet at least twice a year and may hold special meetings at any time or place within the State at the call of the chairman, at the call of the Secretary of the Department of ~~Administration~~ Military and Veterans Affairs or upon the written request of at least six members.

All clerical and other services required by the Commission shall be provided by the Secretary of the Department of ~~Administration~~ Military and Veterans Affairs."

SECTION 24.1.(dd) G.S. 143B-420, as recodified by subsection (d) of this section, reads as rewritten:

"§ 143B-1235. Governor's Jobs for Veterans Committee – creation; appointment, organization, etc.; duties.

(a) There is hereby created and established in the North Carolina Department of ~~Administration, Division of Veterans Affairs,~~ Military and Veterans Affairs, a committee to be known as the Governor's Jobs for Veterans Committee, with one member from each Congressional district, appointed by the Governor. Members of the Committee shall serve at the pleasure of the Governor. The Secretary of ~~Administration,~~ Military and Veterans Affairs with the concurrence of the Governor, shall appoint a chairman to administer this Committee who shall be subject to the direction and supervision of the Secretary. The chairman shall serve at the pleasure of the Secretary. The chairman shall devote full time to his duties of office.

(b) ~~Subject to the general supervision of the Secretary, the~~ The duties of the chairman shall include but not be limited to the ~~following:~~ following, as delegated by the Secretary of Military and Veterans Affairs:

- (1) Serving as a liaison between the Office of the Governor and all State agencies to insure that veterans receive the employment preference to which they are legally entitled and that such State agencies list available jobs with appropriate public employment services;
- (2) Evaluating existing programs designed to benefit veterans and submitting reports and recommendations to the Governor and Secretary;
- (3) Developing and furthering favorable employer attitudes toward the employment of veterans by appropriate promulgation of information concerning veterans and the functions of the Committee;

- (4) Serving as a liaison between the Committee and communities throughout the State to the end that civic committees and volunteer groups are formed and utilized to promote the objectives of the Committee;
- (5) Assisting employers in properly designing affirmative action plans as they relate to handicapped and Vietnam-era veterans;
- (6) Serving as a liaison between veterans and State agencies on questions regarding the employment practices of such State agencies."

SECTION 24.1.(ee) G.S. 161-10.1 reads as rewritten:

"§ 161-10.1. Exemption of Armed Forces discharge documents and certain other records needed in support of claims for veterans' benefits.

Any schedule of fees which is now or may be prescribed in Chapter 161 of the General Statutes or in G.S. 161-10 shall not apply to nor shall the same repeal any of the provisions of Article 5 of Chapter 47 of the General Statutes. Any schedule of fees which is now or may be hereafter prescribed in Chapter 161 of the General Statutes or as may appear in G.S. 161-10 shall not apply to nor shall the same repeal any of the provisions of ~~G.S. 165-11~~ G.S. 143B-1215."

SECTION 24.1.(ff) G.S. 165-11, as recodified by subsection (e) of this section, reads as rewritten:

"§ 143B-1215. Copies of records to be furnished to the Department of ~~Administration~~ Military and Veterans Affairs.

(a) Whenever copies of any State and local public records are requested by a representative of the Department of ~~Administration~~ Military and Veterans Affairs in assisting persons in obtaining any federal, State, local or privately provided benefits relating to veterans and their beneficiaries, the official charged with the custody of any such records shall without charge furnish said representative with the requested number of certified copies of such records; provided, that this section shall not apply to the disclosure of information in certain privileged and confidential records referred to elsewhere in the General Statutes of North Carolina, which information shall continue to be disclosed in the manner prescribed by the statute relating thereto.

(b) No official chargeable with the collection of any fee or charge under the laws of the State of North Carolina in connection with his official duties shall be held accountable on his official bond or otherwise for any fee or charge remitted pursuant to the provisions of this section."

SECTION 24.1.(gg) G.S. 165-11.1, as recodified by subsection (e) of this section, reads as rewritten:

"§ 143B-1216. Confidentiality of ~~Veterans Affairs~~ Department of Military and Veterans Affairs records.

Notwithstanding any other provisions of Chapter 143B, no records of the ~~Division of Veterans Affairs in the Department of Administration~~ Department of Military and Veterans Affairs shall be disclosed or used for any purpose except for official purposes, and no records shall be disclosed, destroyed or used in any manner which is in violation of any existing federal law or regulation. Nothing in this Chapter shall convert records which are the property of the federal government into State property."

SECTION 24.1.(hh) G.S. 165-20, as recodified by subsection (c) of this section, reads as rewritten:

"§ 143B-1224. Definitions.

As used in this Article the terms defined in this section shall have the following meaning:

...

- (3) "Child" means a person: (i) under 25 years of age at the time of application for a scholarship, (ii) who is a domiciliary of North Carolina and is a resident of North Carolina when applying for a scholarship, (iii) who has completed high school or its equivalent prior to receipt of a scholarship awarded under this Article, (iv) who has complied with the requirements of the Selective Service System, if applicable, and (v) who further meets one of the following requirements:

- 1 a. A person whose veteran parent was a legal resident of North Carolina at
2 the time of said veteran's entrance into that period of service in the Armed
3 Forces during which eligibility is established under
4 ~~G.S. 165-22~~, G.S. 143B-1226.
- 5 b. A veteran's child who was born in North Carolina and has been a resident
6 of North Carolina continuously since birth. Provided, that the requirement
7 in the preceding sentence as to birth in North Carolina may be waived by
8 the Department of ~~Administration~~ Military and Veterans Affairs if it is
9 shown to the satisfaction of the Department that the child's mother was a
10 native-born resident of North Carolina and was such resident at the time
11 of her marriage to the veteran and was outside the State temporarily at the
12 time of the child's birth, following which the child was returned to North
13 Carolina within a reasonable period of time where said child has since
14 lived continuously.
- 15 c. A person meeting either of the requirements set forth in subdivision (3) a
16 or b above, and who was legally adopted by the veteran prior to said
17 person's reaching the age of 15 years.

18 ...
19 (5) "Private educational institution" means any junior college, senior college or
20 university which is operated and governed by private interests not under the
21 control of the federal, State or any local government, which is located within the
22 State of North Carolina, which does not operate for profit, whose curriculum is
23 primarily directed toward the awarding of associate, baccalaureate or graduate
24 degrees, which agrees to the applicable administration and funding provisions of
25 ~~G.S. 165-22.1~~, G.S. 143B-1227, of this Article, and which is otherwise approved
26 by the State Board of Veterans Affairs.

27"

28 **SECTION 24.1.(ii)** G.S. 165-21, as recodified by subsection (c) of this section, reads as
29 rewritten:

30 **"§ 143B-1225. Scholarship.**

31 (a) A scholarship granted pursuant to this Article shall consist of the following benefits in
32 either a State or private educational institution:

- 33 ...
34 (2) With respect to private educational institutions, a scholarship shall consist of a
35 monetary allowance as prescribed in ~~G.S. 165-22.1(d)~~, G.S. 143B-1227(d).

36"

37 **SECTION 24.1.(jj)** G.S. 165-22, as recodified by subsection (c) of this section, reads
38 as rewritten:

39 **"§ 143B-1226. Classes or categories of eligibility under which scholarships may be awarded.**

40 A child, as defined in this Article, who falls within the provisions of any eligibility class
41 described below shall, upon proper application be considered for a scholarship, subject to the
42 provisions and limitations set forth for the class under which the child is considered:

- 43 ...
44 (2) Class I-B: Under this class a limited scholarship providing only those benefits set
45 forth in ~~G.S. 165-21(1)a and d and 165-21(2)~~ of this
46 Article, G.S. 143B-1225(a)(1)a. and d. and G.S. 143B-1225(a)(2) shall be
47 awarded to any child whose veteran parent, at the time the benefits pursuant to
48 this Article are sought to be availed of, is or was at the time of his death
49 receiving compensation for a wartime service-connected disability of one
50 hundred percent (100%) as rated by the United States Department of Veterans
51 Affairs. Provided, that if the veteran parent of a recipient under this class should

1 die of his wartime service-connected condition before the recipient shall have
2 utilized all of his scholarship eligibility time, then the North Carolina Department
3 of ~~Administration~~ Military and Veterans Affairs shall amend the recipient's
4 award from Class I-B to Class I-A for the remainder of the recipient's eligibility
5 time. The effective date of such an amended award shall be determined by the
6 Department of ~~Administration~~ Military and Veterans Affairs but, in no event
7 shall it predate the date of the veteran parent's death.

- 8 ...
9 (4) Class III: Under this class a scholarship may be awarded to not more than 100
10 children yearly, each of whose veteran parent, at the time the benefits pursuant to
11 this Article are sought to be availed of:
12 a. Is or was at the time of his death drawing pension for permanent and total
13 disability, nonservice-connected, as rated by the United States
14 Department of Veterans Affairs.
15 b. Is deceased and who does not fall within the provisions of any other
16 eligibility class described in ~~G.S. 165-22(1)~~ G.S. 143B-1226(1), (2), (3),
17 (4)a., nor (5).
18 c. Served in a combat zone, or waters adjacent to a combat zone, or any
19 other campaign, expedition, or engagement for which the United States
20 Department of Defense authorizes a campaign badge or medal, who does
21 not fall within the provisions of any other class described in
22 ~~G.S. 165-22(1)~~ G.S. 143B-1226(1), (2), (3), (4)a., or (5).
23 (5) Class IV: Under this class a scholarship as defined in
24 ~~G.S. 165-24~~ G.S. 143B-1225 shall be awarded to any child whose parent, while
25 serving honorably as a member of the Armed Forces in active federal service
26 during a period of war, as defined in ~~G.S. 165-20(4)~~ G.S. 143B-1224(4), was
27 listed by the United States government as (i) missing in action, (ii) captured in
28 line of duty by a hostile force, or (iii) forcibly detained or interned in line of duty
29 by a foreign government or power."

30 **SECTION 24.1.(kk)** G.S. 165-22.1, as recodified by subsection (c) of this section,
31 reads as rewritten:

32 **"§ 143B-1227. Administration and funding.**

33 (a) The administration of the scholarship program shall be vested in the Department of
34 ~~Administration~~ Military and Veterans Affairs, and the disbursing and accounting activities required
35 shall be a responsibility of the Department of ~~Administration~~ Military and Veterans Affairs. The
36 ~~Veterans-Veterans'~~ Veterans' Affairs Commission shall determine the eligibility of applicants, select the
37 scholarship recipients, establish the effective date of scholarships, and may suspend or revoke
38 scholarships if the ~~said Veterans-Veterans'~~ Veterans' Affairs Commission finds that the recipient does not
39 comply with the registration requirements of the Selective Service System or does not maintain an
40 adequate academic status, or if the recipient engages in riots, unlawful demonstrations, the seizure
41 of educational buildings, or otherwise engages in disorderly conduct, breaches of the peace or
42 unlawful assemblies. The Department of ~~Administration~~ Military and Veterans Affairs shall
43 maintain the primary and necessary records, and the ~~Veterans-Veterans'~~ Veterans' Affairs Commission shall
44 promulgate such rules and regulations not inconsistent with the other provisions of this Article as it
45 deems necessary for the orderly administration of the program. It may require of State or private
46 educational institutions, as defined in this Article, such reports and other information as it may need
47 to carry out the provisions of this Article. The Department of ~~Administration~~ Military and Veterans
48 Affairs shall disburse scholarship payments for recipients certified eligible by the Department of
49 ~~Administration~~ Military and Veterans Affairs upon certification of enrollment by the enrolling
50 institution.

(b) Funds for the support of this program shall be appropriated to the Department of ~~Administration~~ Military and Veterans Affairs as a reserve for payment of the allocable costs for room, board, tuition, and other charges, and shall be placed in a separate budget code from which disbursements shall be made. Funds to support the program shall be supported by receipts from the Escheat Fund, as provided by G.S. 116B-7, but those funds may be used only for worthy and needy residents of this State who are enrolled in public institutions of higher education of this State. In the event the said appropriation for any year is insufficient to pay the full amounts allocable under the provisions of this Article, such supplemental sums as may be necessary shall be allocated from the Contingency and Emergency Fund. The method of disbursing and accounting for funds allocated for payments under the provisions of this section shall be in accordance with those standards and procedures prescribed by the Director of the Budget, pursuant to the ~~Executive Budget Act~~ State Budget Act.

(c) Allowances for room and board in State educational institutions shall be at such rate as established by the Secretary of the Department of ~~Administration~~ Military and Veterans Affairs.

(d) Scholarship recipients electing to attend a private educational institution shall be granted a monetary allowance for each term or other academic period attended under their respective scholarship awards. All recipients under Class I-B scholarship shall receive an allowance at one rate, irrespective of course or institution; all recipients under Classes I-A, II, III and IV shall receive a uniform allowance at a rate higher than for Class I-B, irrespective of course or institution. The amount of said allowances shall be determined by the Director of the Budget and made known prior to the beginning of each fall quarter or semester; provided that the Director of the Budget may change the allowances at intermediate periods when in his judgment such changes are necessary. Disbursements by the State shall be to the private institution concerned, for credit to the account of each recipient attending said institution. The manner of payment to any private institution shall be as prescribed by the Department of ~~Administration~~ Military and Veterans Affairs. The participation by any private institution in the program shall be subject to the applicable provisions of this Article and to examination by State auditors of the accounts of scholarship recipients attending or having attended private institutions. The ~~Veterans~~ Veterans' Affairs Commission may defer making an award or may suspend an award in any private institution which does not comply with the provisions of this Article relating to said institutions.

(e) Irrespective of other provisions of this Article, the ~~Veterans~~ Veterans' Affairs Commission may prescribe special procedures for adjusting the accounts of scholarship recipients who for reasons of illness, physical inability to attend class or for other valid reason satisfactory to the ~~Veterans~~ Veterans' Affairs Commission may withdraw from State or private educational institutions prior to the completion of the term, semester, quarter or other academic period being attended at the time of withdrawal. Such procedures may include, but shall not be limited to, paying the recipient the dollar value of his unused entitlements for the academic period being attended, with a corresponding deduction of this period from his remaining scholarship eligibility time."

SECTION 24.1.(II) G.S. 165-44.5, as recodified by subsection (j) of this section, reads as rewritten:

"§ 143B-1284. Priority employment assistance directed.

All covered service providers, as specified in ~~G.S. 165-44.4~~ G.S. 143B-1283, shall establish procedures to provide veterans with priority, not inconsistent with existing federal or State law, to participate in employment and job training assistance programs."

SECTION 24.1.(mm) G.S. 165-44.6, as recodified by subsection (j) of this section, reads as rewritten:

"§ 143B-1285. Implementation and performance measures.

The North Carolina Commission on Workforce Preparedness shall:

- (1) Issue implementing directives that shall apply to all covered service providers as specified in ~~G.S. 165-44.4~~ G.S. 143B-1283, and revise those directives as necessary to accomplish the purpose of this Article.

- (2) Develop measures of service for veterans that will serve as indicators of compliance with the provisions of this Article by all covered service providers.
- (3) Annually publish and submit to the Joint Legislative Commission on Governmental Operations, beginning not later than October 1, 1998, a report detailing covered providers' compliance with the provisions of this Article."

SECTION 24.1.(nn) G.S. 165-46, as recodified by subsection (k) of this section, reads as rewritten:

"§ 143B-1291. Establishment.

The State of North Carolina shall construct, maintain, and operate veterans homes for the aged and infirm veterans resident in this State under the administrative authority and control of the ~~Division of Veterans Affairs of the Department of Administration~~Department of Military and Veterans Affairs. There is vested in ~~such Division~~the Department any and all powers and authority that may be necessary to enable it to establish and operate the homes and to issue rules necessary to operate the homes in compliance with applicable State and federal statutes and regulations."

SECTION 24.1.(oo) G.S. 165-47, as recodified by subsection (k) of this section, reads as rewritten:

"§ 143B-1292. Exemption from certificate of need.

Any state veterans home established by the ~~Division of Veterans Affairs~~Department of Military and Veterans Affairs shall be exempt from the certificate of need requirements as set out in Article 9 of Chapter 131E, or as may be hereinafter enacted."

SECTION 24.1.(pp) G.S. 165-48, as recodified by subsection (k) of this section, reads as rewritten:

"§ 143B-1293. North Carolina Veterans Home Trust Fund.

(a) Establishment. – A trust fund shall be established in the State treasury, for the ~~Division of Veterans Affairs~~Department of Military and Veterans Affairs, to be known as the North Carolina Veterans Home Trust Fund.

(b) Composition. – The trust fund shall consist of all funds and monies received by the ~~Veterans-Veterans' Affairs Commission or the Division of Veterans Affairs~~ from the United States, any federal agency or institution, and any other source, whether as a grant, appropriation, gift, contribution, devise, or individual reimbursement, for the care and support of veterans who have been admitted to a State veterans home.

(c) Use of Fund. – The trust fund created in subsection (a) of this section shall be used by the ~~Division of Veterans Affairs~~Department of Military and Veterans Affairs to do the following:

- (1) To pay for the care of veterans in said State veterans homes;
- (2) To pay the general operating expenses of the State veterans homes, including the payment of salaries and wages of officials and employees of said homes; and
- (3) To remodel, repair, construct, modernize, or add improvements to buildings and facilities at the homes.

(d) Miscellaneous. – The following provisions apply to the trust fund created in subsection (a) of this section:

- (1) All funds deposited and all income earned on the investment or reinvestment of such funds shall be credited to the trust fund.
- (2) Any monies remaining in the trust fund at the end of each fiscal year shall remain on deposit in the State treasury to the credit of the North Carolina Veterans Home Trust Fund.
- (3) Nothing contained herein shall prohibit the establishment and utilization of special agency accounts by the ~~Division of Veterans Affairs, as may be approved by the Veterans-Veterans' Affairs Commission~~, for the receipt and disbursement of personal funds of the State veterans homes' residents or for receipt and disbursement of charitable contributions for use by and for residents."

1 **SECTION 24.1.(qq)** G.S. 165-49, as recodified by subsection (k) of this section, reads
2 as rewritten:

3 **"§ 143B-1294. Funding.**

4 (a) The ~~Division of Veterans Affairs of the Department of Administration~~Department of
5 Military and Veterans Affairs may apply for and receive federal aid and assistance from the United
6 States Department of Veterans Affairs or any other agency of the United States Government
7 authorized to pay federal aid to states for the construction and acquisition of veterans homes under
8 Title 38, United States Code, section 8131 et seq., or for the care or support of disabled veterans in
9 State veterans homes under Title 38, United States Code, section 1741 et seq., or from any other
10 federal law for said purposes.

11 (b) The ~~Division of Veterans Affairs~~Department may receive from any source any gift,
12 contribution, devise, or individual reimbursement, the receipt of which does not exclude any other
13 source of revenue.

14 (c) All funds received by the ~~Division~~Department shall be deposited in the North Carolina
15 Veterans Home Trust Fund, except for any funds deposited into special agency accounts established
16 pursuant to ~~G.S. 165-48(d)(3)~~. G.S. 143B-1293(d)(3). The ~~Veterans~~Veterans' Affairs Commission
17 shall authorize the expenditure of all funds from the North Carolina Veterans Home Trust Fund.
18 The ~~Veterans~~Veterans' Affairs Commission may delegate authority to the Assistant Secretary of
19 Veterans Affairs for the expenditure of funds from the North Carolina Veterans Home Trust Fund
20 for operations of the State Veterans Nursing Homes."

21 **SECTION 24.1.(rr)** G.S. 165-50, as recodified by subsection (k) of this section, reads
22 as rewritten:

23 **"§ 143B-1295. Contracted operation of homes.**

24 The ~~Veterans~~Veterans' Affairs Commission may contract with persons or other
25 nongovernmental entities to operate each State veterans home. Contracts for the procurement of
26 services to manage, administer, and operate any State veterans home shall be awarded on a
27 competitive basis through the solicitation of proposals and through the procedures established by
28 statute and the Division of Purchase and Contract. A contract may be awarded to the vendor whose
29 proposal is most advantageous to the State, taking into consideration cost, program suitability,
30 management plan, excellence of program design, key personnel, corporate or company resources,
31 financial condition of the vendor, experience and past performance, and any other qualities deemed
32 necessary by the ~~Veterans~~Veterans' Affairs Commission and set out in the solicitation for
33 proposals. Any contract awarded under this section shall not exceed five years in length. The
34 ~~Veterans~~Veterans' Affairs Commission is not required to select or recommend the vendor offering
35 the lowest cost proposal but shall select or recommend the vendor who, in the opinion of the
36 Commission, offers the proposal most advantageous to the veterans and the State of North
37 Carolina."

38 **SECTION 24.1.(ss)** G.S. 165-51, as recodified by subsection (k) of this section, reads
39 as rewritten:

40 **"§ 143B-1296. Program staff.**

41 The ~~Division~~Department shall appoint and fix the salary of an Administrative Officer for the
42 State veterans home program. The Administrative Officer shall be an honorably discharged veteran
43 who has served in active military service in the Armed Forces of the United States for other than
44 training purposes. The Administrative Officer shall direct the establishment of the State veterans
45 home program, coordinate the master planning, land acquisition, and construction of all State
46 veterans homes under the procedures of the Office of State Construction, and oversee the ongoing
47 operation of said veterans homes. The Division may hire any required additional administrative
48 staff to help with administrative and operational responsibilities at each established State veterans
49 home."

50 **SECTION 24.1.(tt)** G.S. 165-52, as recodified by subsection (k) of this section, reads
51 as rewritten:

1 **"§ 143B-1297. Admission and dismissal authority.**

2 The ~~Veterans~~ Veterans' Affairs Commission shall have authority to determine administrative
3 standards for admission and dismissal, as well as the medical conditions, of all persons admitted to
4 and dismissed from any State veterans home, and to issue any necessary rules, subject to the
5 requirements set out in ~~G.S. 165-53~~ G.S. 143B-1298."

6 **SECTION 24.1.(uu)** G.S. 165-54, as recodified by subsection (k) of this section, reads
7 as rewritten:

8 **"§ 143B-1299. Deposit required.**

9 Each resident of any State veterans home shall pay to the ~~Division of Veterans~~
10 ~~Affairs~~ Department of Military and Veterans Affairs the cost of maintaining his or her residence at
11 the home. This deposit shall be placed in the North Carolina Veterans Home Trust Fund and shall
12 be in an amount and in the form prescribed by the ~~Veterans~~ Veterans' Affairs Commission in
13 consultation with the Assistant Secretary for Veterans Affairs."

14 **SECTION 24.1.(vv)** G.S. 165-55, as recodified by subsection (k) of this section, reads
15 as rewritten:

16 **"§ 143B-100. Report and budget.**

17 (a) The Assistant Secretary for Veterans Affairs shall report annually to the Secretary of the
18 Department of ~~Administration~~ Military and Veterans Affairs on the activities of the State Veterans
19 Homes Program. This report shall contain an accounting of all monies received and expended,
20 statistics on residents in the homes during the year, recommendations to the Secretary, the
21 Governor, and the General Assembly as to the program, and such other matters as may be deemed
22 pertinent.

23 (b) The Assistant Secretary for Veterans Affairs, with the approval of the ~~Veterans~~ Veterans'
24 Affairs Commission, shall compile an annual budget request for any State funding needed for the
25 anticipated costs of the homes, which shall be submitted to the Secretary of the Department of
26 ~~Administration~~ Military and Veterans Affairs. State appropriated funds for operational needs shall
27 be made available only in the event that other sources are insufficient to cover essential operating
28 costs."

29 **SECTION 24.1.(ww)** This section becomes effective on January 1, 2016.
30

31 **Senate Version**

32 **ESTABLISH DEPARTMENT OF MILITARY AND VETERANS AFFAIRS**

33
34 **CREATION OF DEPARTMENT**

35 **SECTION 24.1.(a)** The Department of Military and Veterans Affairs is established as a
36 new executive department. All functions, powers, duties, and obligations vested in the following
37 agencies are transferred to, vested in, and consolidated within the Department of Military and
38 Veterans Affairs by a Type I transfer, as defined in G.S. 143A-6:

39 (1) The following components of the Department of Administration:

- 40 a. The Veterans' Affairs Commission.
41 b. The Governor's Jobs for Veterans Committee.
42 c. The Division of Veterans Affairs.

43 (2) The North Carolina Military Affairs Commission in the Office of the Governor.

44 **SECTION 24.1.(b)** Chapter 143B of the General Statutes is amended by adding a new
45 Article to read:

46 "Article 14.

47 "Department of Military and Veterans Affairs.

48 "Part 1. General Provisions.

49 **"§ 143B-1210. Organization.**

1 (a) There is established the Department of Military and Veterans Affairs. The head of the
2 Department of Military and Veterans Affairs is the Secretary of Military and Veterans Affairs, who
3 shall be known as the Secretary.

4 (b) The powers and duties of the deputy secretaries and the divisions and directors of the
5 Department shall be subject to the direction and control of the Secretary of Military and Veterans
6 Affairs.

7 **"§ 143B-1211. Powers and duties of the Department of Military and Veterans Affairs.**

8 It shall be the duty of the Department of Military and Veterans Affairs to do all of the following:

- 9 (1) Provide active outreach to the United States Department of Defense and the
10 United States Department of Homeland Security and their associated
11 establishments in North Carolina in order to support the military installations and
12 activities in the State, to enhance North Carolina's current military-friendly
13 environment and foster and promote business, technology, transportation,
14 education, economic development, and other efforts in support of the mission,
15 execution, and transformation of the United States government military and
16 national defense activities located in the State.
- 17 (2) Promote the industrial and economic development of localities included in or
18 adjacent to United States government military and national defense activities and
19 those of the State.
- 20 (3) Provide technical assistance and coordination between the State, its political
21 subdivisions, and the United States military and national defense activities within
22 the State of North Carolina.
- 23 (4) Award grants to local governments, State and federal agencies, and private
24 entities at the direction of the Secretary. The number of grants awarded and the
25 level of funding of each grant for each fiscal year shall be contingent upon and
26 determined by funds appropriated for that purpose by the General Assembly.
- 27 (5) Provide active outreach to the United States Department of Veterans Affairs, the
28 veterans service organizations, and the veterans community in North Carolina to
29 support and assist North Carolina's veterans in identifying and obtaining the
30 services, assistance, and support to which they are entitled, including monitoring
31 efforts to provide services to veterans, newly separated service members, and
32 their immediate family members and disseminating relevant materials.
- 33 (6) Monitor and enhance efforts to provide assistance and support for veterans living
34 in North Carolina and members of the North Carolina National Guard and North
35 Carolina residents in the Armed Forces Reserves not in active federal service in
36 the areas of (i) medical care, (ii) mental health and rehabilitative services, (iii)
37 housing, (iv) homelessness prevention, (v) job creation, and (vi) education.
- 38 (7) Seek and receive monies from any source, including federal funds, gifts, grants,
39 and devises, which shall be expended for the purposes designated in this Article.
- 40 (8) Provide active outreach, coordination, formal training and standards, and official
41 certification to localities of the State and veterans support organizations in the
42 development, implementation, and review of local veterans services programs as
43 part of the State program.
- 44 (9) Work with veterans services organizations and counterparts in other states to
45 monitor and encourage the timely and accurate processing of veterans' benefit
46 requests by the United States Department of Veterans Affairs, including requests
47 for service connected to health care, mental health care, and disability payments.
- 48 (10) Manage and maintain the State's veterans nursing homes and cemeteries and their
49 associated assets to the standard befitting those who have worn the uniform of
50 the Armed Forces according to federal guidelines. Plan for expansion and grow

- the capacity of these facilities and any new facilities as required pending the availability of designated funds.
- (11) Manage and maintain the State's Scholarships for Children of Wartime Veterans in accordance with Part 2 of Article 14 of Chapter 143B of the General Statutes and in support of the Veterans' Affairs Commission.
- (12) Provide administrative, organizational, and funding support to the NC Military Affairs Commission and the Governor's Working Group for Veterans.
- (13) Work with federal officials to obtain additional federal resources and coordinate veterans policy development and information exchange.
- (14) Work with the appropriate heads of the principal departments to coordinate working relationships between State agencies and take all actions necessary to ensure that available federal and State resources are directed toward assisting veterans and addressing all issues of mutual concern to the State and the Armed Forces of the United States, including, but not limited to, quality of life issues unique to North Carolina's military personnel and their families, the quality of educational opportunities for military children, the future of federal impact aid, preparedness, public safety and security concerns, transportation needs, alcoholic beverage law enforcement, substance abuse, social service needs, possible expansion and growth of military facilities in the State, and intergovernmental support agreements with state and local governments.
- (15) Educate the public on veterans and defense issues in coordination with applicable State agencies.
- (16) Adopt rules and procedures for the implementation of this section.
- (17) Assist veterans, their families, and dependents in the presentation, processing, proof, and establishment of such claims, privileges, rights, and benefits as they may be entitled to under federal, State, or local laws, rules, and regulations.
- (18) Aid persons in active military service and their dependents with problems arising out of that service that come reasonably within the purview of the Department's program of assistance.
- (19) Collect data and information as to the facilities and services available to veterans, their families, and dependents and to cooperate with agencies furnishing information or services throughout the State in order to inform such agencies regarding the availability of (i) education, training, and retraining facilities; (ii) health, medical, rehabilitation, and housing services and facilities; (iii) employment and reemployment services; and (iv) provisions of federal, State, and local laws, rules, and regulations affording rights, privileges, and benefits to veterans, their families, and dependents, and in respect to such other matters of similar, related, or appropriate nature not herein set out.
- (20) Establish such field offices, facilities, and services throughout the State as may be necessary to carry out the purposes of this Article.
- (21) Cooperate, as the Department deems appropriate, with governmental, private, and civic agencies and instrumentalities in securing services or benefits for veterans, their families, dependents, and beneficiaries.
- (22) Enter into any contract or agreement with any person, business, governmental agency, or other entity in furtherance of the purposes of this Article.
- (23) Train, assist, and provide guidance to the employees of any county, city, town, or Indian tribe who are engaged in veterans service. Authority is hereby granted to the governing body of any county, city, or town to appropriate such amounts as it may deem necessary to provide a veterans services program, and the expenditure of such funds is hereby declared to be for a public purpose; such program shall

1 be operated in affiliation with this Department as set forth above and in
2 compliance with Department policies and procedures.

3 **"§ 143B-1212. Personnel of the Department of Military and Veterans Affairs.**

4 Notwithstanding G.S. 114-2.3, the Secretary of Military and Veterans Affairs shall have the
5 power to appoint all employees, including consultants and legal counsel, necessary to carry out the
6 powers and duties of the office. These employees shall be subject to the North Carolina Human
7 Resources Act, except that employees in positions designated as exempt under G.S. 126-5(d)(1) are
8 not subject to the Act, in accordance with the provisions of that section.

9 **"§ 143B-1213. Definitions.**

10 Except where provided otherwise, the following definitions apply in this Chapter:

11 (1) Department. – The Department of Military and Veterans Affairs.

12 (2) Secretary. – The Secretary of Military and Veterans Affairs.

13 (3) Veteran. – One of the following, as applicable:

14 a. For qualifying as a voting member of the State Board of Veterans Affairs
15 and as the State Director of Veterans Affairs, a person who served
16 honorably during a period of war as defined in Title 38, United States
17 Code.

18 b. For entitlement to the services of the Department of Military and
19 Veterans Affairs, any person who may be entitled to any benefits or rights
20 under the laws of the United States by reason of service in the Armed
21 Forces of the United States."

22
23 **CREATION OF STATUTORY PARTS AND RECODIFICATION AND REPEAL OF**
24 **AFFECTED STATUTES**

25 **SECTION 24.1.(c)** Veterans' Affairs Commission. – Part 13 of Article 9 of Chapter
26 143B of the General Statutes is recodified as Part 2 of Article 14 of Chapter 143B of the General
27 Statutes and renumbered as G.S. 143B-1220 through G.S. 143B-1222. G.S. 165-19 through
28 G.S. 165-22.1 are recodified under that Part as G.S. 143B-1223 through G.S. 143B-1227.

29 **SECTION 24.1.(d)** Governor's Jobs for Veterans Committee. – Part 19 of Article 9 of
30 Chapter 143B of the General Statutes is recodified as Part 3 of Article 14 of Chapter 143B of the
31 General Statutes and renumbered as G.S. 143B-1235 and G.S. 143B-1236.

32 **SECTION 24.1.(e)** Division of Veterans Affairs. – G.S. 165-1 through G.S. 165-4,
33 G.S. 165-6, 165-8, and 165-10 are repealed. G.S. 165-9, 165-11, and 165-11.1 are recodified under
34 Part 1 of Article 14 of Chapter 143B of the General Statutes as G.S. 143B-1214 through
35 G.S. 143B-1216, respectively.

36 **SECTION 24.1.(f)** Minor Veterans and Minor Spouses of Veterans. – Article 2 of
37 Chapter 165 of the General Statutes is recodified as Part 4 of Article 14 of Chapter 143B of the
38 General Statutes, G.S. 143B-1240 through G.S. 143B-1244. Article 3 of Chapter 165 of the General
39 Statutes is recodified as Part 5 of Article 14 of Chapter 143B of the General Statutes,
40 G.S. 143B-1247 and G.S. 143B-1248.

41 **SECTION 24.1.(g)** Veterans Recreation Authorities Law. – Article 5 of Chapter 165 of
42 the General Statutes is recodified as Part 6 of Article 14 of Chapter 143B of the General Statutes,
43 G.S. 143B-1250 through G.S. 143B-1265.

44 **SECTION 24.1.(h)** Powers of Attorney. – Article 6 of Chapter 165 of the General
45 Statutes is recodified as Part 7 of Article 14 of Chapter 143B of the General Statutes,
46 G.S. 143B-1270 through G.S. 143B-1273.

47 **SECTION 24.1.(i)** Miscellaneous Provisions. – Article 7 of Chapter 165 of the General
48 Statutes is recodified as Part 8 of Article 14 of Chapter 143B of the General Statutes,
49 G.S. 143B-1275 through G.S. 143B-1277.

1 **SECTION 24.1.(j)** Employment Assistance. – Article 7A of Chapter 165 of the General
2 Statutes is recodified as Part 9 of Article 14 of Chapter 143B of the General Statutes,
3 G.S. 143B-1280 through G.S. 143B-1285.

4 **SECTION 24.1.(k)** State Veterans Home. – Article 8 of Chapter 165 of the General
5 Statutes is recodified as Part 10 of Article 14 of Chapter 143B of the General Statutes,
6 G.S. 143B-1290 through G.S. 143B-1300.

7 **SECTION 24.1.(l)** North Carolina Military Affairs Commission. – Chapter 127C of the
8 General Statutes is recodified as Part 11 of Article 14 of Chapter 143B of the General Statutes,
9 G.S. 143B-1310 through G.S. 143B-1314.

10
11 **CONFORMING CHANGES**

12 **SECTION 24.1.(m)** G.S. 20-79.4 reads as rewritten:

13 **"§ 20-79.4. Special registration plates.**

14 ...
15 (a2) Special Plates Based Upon Military Service. – The ~~Division of Veterans Affairs~~
16 Department of Military and Veterans Affairs shall be responsible for verifying and maintaining all
17 verification documentation for all special plates that are based upon military service. The ~~Division~~
18 Department shall not issue a special plate that is based on military service unless the application is
19 accompanied by a motor vehicle registration (MVR) verification form signed by the ~~Director of the~~
20 Division of Veterans Affairs, Secretary of Military and Veterans Affairs, or the ~~Director's~~
21 Secretary's designee, showing that the ~~Division of Veterans Affairs-Department of Military and~~
22 Veterans Affairs has verified the applicant's credentials and qualifications to hold the special plate
23 applied for.

- 24 (1) Unless a qualifying condition exists requiring annual verification, no additional
25 verification shall be required to renew a special registration plate either in person
26 or through an online service.
27 (2) If the ~~Division of Veterans Affairs-Department of Military and Veterans Affairs~~
28 determines a special registration plate has been issued due to an error on the part
29 of the Division of Motor Vehicles, the plate shall be recalled and canceled.
30 (3) If the ~~Division of Veterans Affairs-Department of Military and Veterans Affairs~~
31 determines a special registration plate has been issued to an applicant who
32 falsified documents or has fraudulently applied for the special registration plate,
33 the Division of Motor Vehicles shall revoke the special plate and take
34 appropriate enforcement action.

35 "
36 **SECTION 24.1.(n)** G.S. 20-79.5 reads as rewritten:
37 **"§ 20-79.5. Special registration plates for elected and appointed State government officials.**

38 (a) Plates. – The State government officials listed in this section are eligible for a special
39 registration plate under G.S. 20-79.4. The plate shall bear the number designated in the following
40 table for the position held by the official.

Position	Number on Plate
Governor	1
Lieutenant Governor	2
...	
<u>Secretary of Military and Veterans Affairs</u>	<u>22</u>
Governor's Staff	<u>22-23-29</u>
...."	

48 **SECTION 24.1.(o)** G.S. 47-113.2 reads as rewritten:
49 **"§ 47-113.2. Restricting access to military discharge documents.**

50 ...
51 (b) Definitions:

(1) Authorized party. – Four categories of authorized parties are recognized with respect to access to military discharge documents under subsection (e) of this section:

...

c. Authorized agents of the ~~Division of Veterans Affairs, Department of~~ Military and Veterans Affairs, the United States Department of Veterans Affairs, the Department of Defense, or a court official with an interest in assisting the subject or the deceased subject's beneficiaries to obtain a benefit.

...

(h) The North Carolina Association of Registers of Deeds and the ~~Division of Veterans Affairs, Department of Military and Veterans Affairs~~ shall adopt ~~before January 1, 2004,~~ such request forms and associated rules as are required to implement the provisions of this section. All filing offices shall use the forms and comply with the rules, as adopted.

...."

SECTION 24.1.(p) G.S. 65-43.4(b) reads as rewritten:

"(b) A disinterment may be permitted, at no cost to the State, when the following conditions are satisfied:

(1) The disinterment is requested in writing and filed with the Program Director of the veterans cemeteries, the Assistant Secretary for Veterans Affairs, or the ~~Division of Veterans Affairs, Department of Military and Veterans Affairs;~~

(2) The request for disinterment contains the notarized signature of the nearest of kin, such as surviving spouse. If the spouse is deceased, the signatures of a majority of the surviving children of legal age will be required;

(3) The funeral director has obtained all necessary permits for disinterment."

SECTION 24.1.(q) G.S. 65-43.5 reads as rewritten:

"§ 65-43.5. Reinterment.

(a) The remains of a qualified veteran or the remains of an eligible family member may be moved to a State veterans cemetery for reinterment, at no cost to the State, when the following conditions are satisfied:

...

(2) The reinterment is requested in writing and filed with the Program Manager of veterans cemeteries, the Assistant Secretary for Veterans Affairs, or the ~~Division of Veterans Affairs; and~~ Department of Military and Veterans Affairs;

...."

SECTION 24.1.(r) G.S. 93B-15.1(c1) reads as rewritten:

"(c1) Each occupational licensing board shall publish a document that lists the specific criteria or requirements for licensure, registration, or certification by the board, with a description of the criteria or requirements that are satisfied by military training or experience as provided in this section, and any necessary documentation needed for obtaining the credit or satisfying the requirement. The information required by this subsection shall be published on the occupational licensing board's Web site and the Web site of the ~~North Carolina Division of Veterans Affairs, Department of Military and Veterans Affairs.~~"

SECTION 24.1.(s) G.S. 116-209.23 reads as rewritten:

"§ 116-209.23. Inconsistent laws inapplicable.

Insofar as the provisions of this Article are inconsistent with the provisions of any general or special laws, or parts thereof, the provisions of this Article shall be controlling, except that no provision of the 1971 amendments to this Article shall apply to scholarships for children of war veterans as set forth in ~~Article 4 of Chapter 165,~~ Part 2 of Article 14 of Chapter 143B of the General Statutes, as amended."

SECTION 24.1.(t) G.S. 116B-7(b) reads as rewritten:

1 "(b) An amount specified in the Current Operations Appropriations Act shall be transferred
2 annually from the Escheat Fund to the Department of ~~Administration~~ Military and Veterans Affairs
3 to partially fund the program of Scholarships for Children of War Veterans established by ~~Article 4~~
4 ~~of Chapter 165~~ Part 2 of Article 14 of Chapter 143B of the General Statutes. Those funds may be
5 used only for residents of this State who (i) are worthy and needy as determined by the Department
6 of ~~Administration~~ Military and Veterans Affairs and (ii) are enrolled in public institutions of higher
7 education of this State."

8 **SECTION 24.1.(u)** G.S. 126-2(b1)(5) reads as rewritten:

9 "(b1) The Commission shall consist of nine members, appointed as follows:

10 ...

11 (5) One member who is a veteran of the Armed Forces of the United States
12 appointed by the Governor upon the nomination of the ~~Veterans~~ Veterans' Affairs
13 Commission and who is a State employee subject to this Chapter serving in a
14 nonexempt supervisory position. The member may not be a human resources
15 professional."

16 **SECTION 24.1.(v)** G.S. 126-5(d)(1) is amended by adding a new sub-subdivision to
17 read:

18 "(d) (1) Exempt Positions in Cabinet Department. – Subject to the provisions of this
19 Chapter, which is known as the North Carolina Human Resources Act, the
20 Governor may designate a total of 1,500 exempt positions throughout the
21 following departments and offices:

- 22 a. Department of Administration.
- 23 b. Department of Commerce.
- 24 c. Repealed by Session Laws 2012-83, s. 7, effective June 26, 2012, and by
25 Session Laws 2012-142, s. 25.2E(a), effective January 1, 2013.
- 26 d. Department of Public Safety.
- 27 e. Department of Cultural Resources.
- 28 f. Department of Health and Human Services.
- 29 g. Department of Environment and Natural Resources.
- 30 h. Department of Revenue.
- 31 i. Department of Transportation.
- 32 j. Repealed by Session Laws 2012-83, s. 7, effective June 26, 2012, and by
33 Session Laws 2012-142, s. 25.2E(a), effective January 1, 2013.
- 34 k. Office of Information Technology Services.
- 35 l. Office of State Budget and Management.
- 36 m. Office of State Human Resources.
- 37 n. Department of Military and Veterans Affairs."

38 **SECTION 24.1.(w)** G.S. 127C-1, as recodified by subsection (l) of this section, reads
39 as rewritten:

40 **"§ 143B-1310. Commission established; purpose; transaction of business.**

41 (a) Establishment. – There is established the North Carolina Military Affairs Commission.
42 The Commission shall be established within the ~~Office of the Governor. The Department of~~
43 ~~Commerce is responsible for organizational, budgetary, and administrative purposes.~~ Department of
44 Military and Veterans Affairs.

45 (b) Purpose. – The Commission shall provide advice, counsel, and recommendations to ~~the~~
46 ~~Governor,~~ the General Assembly, the Secretary of ~~Commerce,~~ Military and Veterans Affairs, and
47 other State agencies on initiatives, programs, and legislation that will continue and increase the role
48 that North Carolina's military installations, the National Guard, and Reserves play in America's
49 defense strategy and the economic health and vitality of the State. The Commission is authorized
50 ~~to~~ to do all of the following, as delegated by the Secretary of Military and Veterans Affairs:

51 ...

(c) Transaction of Business. – The Commission shall meet, at a minimum, at least once during each quarter and shall provide a report on military affairs to the ~~Governor~~Secretary of Military and Veterans Affairs and to the General Assembly at least every six months. Prior to the start of a Regular Session of the General Assembly, the Commission shall report to the General Assembly with recommendations, if any, for legislation. Priority actions or issues may be submitted at any time.

...."

SECTION 24.1.(x) G.S. 127C-2(h), as recodified by subsection (l) of this section, reads as rewritten:

"(h) The initial meeting of the Commission shall be within 30 days of the effective date of this act at a time and place to be determined by the Secretary of Commerce. The first order of business at the initial meeting of the Commission shall be the adoption of bylaws and establishment of committees, after which the Commission shall meet upon the call of the Chairman ~~or the Military Advisor within the Office of the Governor~~or the Secretary of the Department of Military and Veterans Affairs. The members shall receive no compensation for attendance at meetings, except a per diem expense reimbursement. Members of the Commission who are not officers or employees of the State shall receive reimbursement for subsistence and travel expenses at rates set out in G.S. 138-5 from funds made available to the Commission. Members of the Commission who are officers or employees of the State shall be reimbursed for travel and subsistence at the rates set out in G.S. 138-6 from funds made available to the Commission. The Department of ~~Commerce~~Military and Veterans Affairs shall use funds within its budget for the per diem, subsistence, and travel expenses authorized by this subsection."

SECTION 24.1.(y) G.S. 127C-3, as recodified by subsection (l) of this section, is repealed.

SECTION 24.1.(z) G.S. 127C-5, as recodified by subsection (l) of this section, reads as rewritten:

"§ 143B-1314. Protection of sensitive documents.

(a) In carrying out any purpose set out in ~~G.S. 127C-1(b)~~G.S. 143B-1310(b), the Commission and the Department of ~~Commerce~~Military and Veterans Affairs may share documents and discussions protected from disclosure under G.S. 132-1.2 and G.S. 143-318.11 with other public bodies. Any information shared under this subsection shall be confidential and exempt from Chapter 132 of the General Statutes to the same extent that it is confidential in the possession of the Commission or the Department.

(b) In carrying out any purpose set out in ~~G.S. 127C-1(b)~~G.S. 143B-1310(b), the Commission and the Department of ~~Commerce~~Military and Veterans Affairs may share documents and discussions protected from disclosure under G.S. 132-1.2 and G.S. 143-318.11 with any third party in its discretion. Any information shared under this subsection shall be shared under an agreement to keep the information confidential to the same extent that it is confidential in the possession of the Commission or the Department."

SECTION 24.1.(aa) G.S. 143B-6 is amended by adding a new subdivision to read:

"§ 143B-6. Principal departments.

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

...

(12) Department of Military and Veterans Affairs."

SECTION 24.1.(bb) G.S. 143B-399, as recodified and renumbered by subsection (c) of this section, reads as rewritten:

"§ 143B-1220. Veterans' Affairs Commission – creation, powers and duties.

1 There is hereby created the Veterans' Affairs Commission of the Department of ~~Administration~~
2 ~~of Military and Veterans Affairs.~~ The Veterans' Affairs Commission shall have the following
3 functions and ~~duties~~; ~~duties~~, as delegated by the Secretary of Military and Veterans Affairs:

- 4 (1) To advise the ~~Governor~~ Secretary of Military and Veterans Affairs on matters
5 relating to the affairs of veterans in North Carolina;
- 6 (2) To maintain a continuing review of the operation and budgeting of existing
7 programs for veterans and their dependents in the State and to make any
8 recommendations to the ~~Governor~~ Secretary of Military and Veterans Affairs for
9 improvements and additions to such matters to which the ~~Governor~~ Secretary
10 shall give due consideration;
- 11 ~~(3) To serve collectively as a liaison between the Division of Veterans Affairs and~~
12 ~~the veterans organizations represented on the Commission;~~
- 13 (4) To promulgate rules and regulations concerning the awarding of scholarships for
14 children of North Carolina veterans as provided by ~~Article 4 of Chapter 165 of~~
15 ~~the General Statutes of North Carolina.~~ this Article. The Commission shall make
16 rules and regulations consistent with the provisions of this ~~Chapter.~~ Article. All
17 rules and regulations not inconsistent with the provisions of this Chapter
18 heretofore adopted by the State Board of Veterans' Affairs shall remain in full
19 force and effect unless and until repealed or superseded by action of the ~~Veterans~~
20 Veterans' Affairs Commission. All rules and regulations adopted by the
21 Commission shall be enforced by the ~~Division of Veterans' Affairs;~~ Department
22 of Military and Veterans Affairs;
- 23 (4a) To promulgate rules concerning the awarding of the North Carolina Services
24 Medal to all veterans who have served in any period of war as defined in 38
25 U.S.C. § 101. The award shall be self-financing; those who wish to be awarded
26 the medal shall pay a fee to cover the expenses of producing the medal and
27 awarding the medal. All rules adopted by the Commission with respect to the
28 North Carolina Services Medal shall be implemented and enforced by the
29 ~~Division of Veterans' Affairs;~~ Department of Military and Veterans Affairs; and
- 30 (5) To advise the ~~Governor~~ Secretary on any matter the ~~Governor~~ Secretary may
31 refer to it."

32 **SECTION 24.1.(cc)** G.S. 143B-400, as recodified and renumbered by subsection (c) of
33 this section, reads as rewritten:

34 **"§ 143B-1221. Veterans' Affairs Commission – members; selection; quorum; compensation.**

35 The Veterans' Affairs Commission of the Department of ~~Administration~~ Military and Veterans
36 Affairs shall consist of one voting member from each congressional district, all of whom shall be
37 veterans, appointed by the Governor for four-year terms. In making these appointments, the
38 Governor shall insure that both major political parties will be continuously represented on the
39 Veterans' Affairs Commission.

40 The initial members of the Commission shall be the appointed members of the current Veterans'
41 Affairs Commission who shall serve for the remainder of their current terms and six additional
42 members appointed by the Governor for terms expiring June 30, 1981. Thereafter, all members shall
43 be appointed for terms of four years. Any appointment to fill a vacancy on the Commission created
44 by the resignation, dismissal, death or disability of a member shall be for the balance of the
45 unexpired term. The Governor shall have the power to remove any member of the Commission in
46 accordance with provisions of G.S. 143B-13.

47 In the event that more than 11 congressional districts are established in the State, the Governor
48 shall on July 1 following the establishment of such additional congressional districts appoint a
49 member of the Commission from that congressional district. If on July 1, 1977, or at any time
50 thereafter due to congressional redistricting, two or more members of the Veterans' Affairs
51 Commission shall reside in the same congressional district then such members shall continue to

1 serve as members of the Commission for a period equal to the remainder of their current terms on
2 the Commission provided that upon the expiration of said term or terms the Governor shall fill such
3 vacancy or vacancies in such a manner as to insure that as expeditiously as possible there is one
4 member of the Veterans' Affairs Commission who is a resident of each congressional district in the
5 State.

6 The Governor shall designate from the membership of the Commission a chairman and
7 vice-chairman of the Commission who shall serve at the pleasure of the Governor. The Secretary of
8 the Department of ~~Administration~~ Military and Veterans Affairs or his designee shall serve as
9 secretary of the Commission.

10 Members of the Commission shall receive per diem and necessary travel and subsistence
11 expenses in accordance with provisions of G.S. 138-5.

12 A majority of the Commission shall constitute a quorum for the transaction of business.

13 The Veterans' Affairs Commission shall meet at least twice a year and may hold special
14 meetings at any time or place within the State at the call of the chairman, at the call of the Secretary
15 of the Department of ~~Administration~~ Military and Veterans Affairs or upon the written request of at
16 least six members.

17 All clerical and other services required by the Commission shall be provided by the Secretary of
18 the Department of ~~Administration~~ Military and Veterans Affairs."

19 **SECTION 24.1.(dd)** G.S. 143B-420, as recodified by subsection (d) of this section,
20 reads as rewritten:

21 **"§ 143B-1235. Governor's Jobs for Veterans Committee – creation; appointment,**
22 **organization, etc.; duties.**

23 (a) There is hereby created and established in the North Carolina Department of
24 ~~Administration, Division of Veterans Affairs, Military and Veterans Affairs,~~ a committee to be
25 known as the Governor's Jobs for Veterans Committee, with one member from each Congressional
26 district, appointed by the Governor. Members of the Committee shall serve at the pleasure of the
27 Governor. The Secretary of ~~Administration, Military and Veterans Affairs~~ with the concurrence of
28 the Governor, shall appoint a chairman to administer this Committee who shall be subject to the
29 direction and supervision of the Secretary. The chairman shall serve at the pleasure of the Secretary.
30 The chairman shall devote full time to his duties of office.

31 (b) ~~Subject to the general supervision of the Secretary, the~~ The duties of the chairman shall
32 include but not be limited to the ~~following:~~ following, as delegated by the Secretary of Military and
33 Veterans Affairs:

- 34 (1) Serving as a liaison between the Office of the Governor and all State agencies to
35 insure that veterans receive the employment preference to which they are legally
36 entitled and that such State agencies list available jobs with appropriate public
37 employment services;
- 38 (2) Evaluating existing programs designed to benefit veterans and submitting reports
39 and recommendations to the Governor and Secretary;
- 40 (3) Developing and furthering favorable employer attitudes toward the employment
41 of veterans by appropriate promulgation of information concerning veterans and
42 the functions of the Committee;
- 43 (4) Serving as a liaison between the Committee and communities throughout the
44 State to the end that civic committees and volunteer groups are formed and
45 utilized to promote the objectives of the Committee;
- 46 (5) Assisting employers in properly designing affirmative action plans as they relate
47 to handicapped and Vietnam-era veterans;
- 48 (6) Serving as a liaison between veterans and State agencies on questions regarding
49 the employment practices of such State agencies."

50 **SECTION 24.1.(ee)** G.S. 161-10.1 reads as rewritten:

1 **"§ 161-10.1. Exemption of Armed Forces discharge documents and certain other records**
2 **needed in support of claims for veterans' benefits.**

3 Any schedule of fees which is now or may be prescribed in Chapter 161 of the General Statutes
4 or in G.S. 161-10 shall not apply to nor shall the same repeal any of the provisions of Article 5 of
5 Chapter 47 of the General Statutes. Any schedule of fees which is now or may be hereafter
6 prescribed in Chapter 161 of the General Statutes or as may appear in G.S. 161-10 shall not apply to
7 nor shall the same repeal any of the provisions of ~~G.S. 165-11~~. G.S. 143B-1215."

8 **SECTION 24.1.(ff)** G.S. 165-11, as recodified by subsection (e) of this section, reads
9 as rewritten:

10 **"§ 143B-1215. Copies of records to be furnished to the Department of**
11 **Administration-Military and Veterans Affairs.**

12 (a) Whenever copies of any State and local public records are requested by a representative
13 of the Department of ~~Administration~~ Military and Veterans Affairs in assisting persons in obtaining
14 any federal, State, local or privately provided benefits relating to veterans and their beneficiaries,
15 the official charged with the custody of any such records shall without charge furnish said
16 representative with the requested number of certified copies of such records; provided, that this
17 section shall not apply to the disclosure of information in certain privileged and confidential records
18 referred to elsewhere in the General Statutes of North Carolina, which information shall continue to
19 be disclosed in the manner prescribed by the statute relating thereto.

20 (b) No official chargeable with the collection of any fee or charge under the laws of the
21 State of North Carolina in connection with his official duties shall be held accountable on his
22 official bond or otherwise for any fee or charge remitted pursuant to the provisions of this section."

23 **SECTION 24.1.(gg)** G.S. 165-11.1, as recodified by subsection (e) of this section,
24 reads as rewritten:

25 **"§ 143B-1216. Confidentiality of ~~Veterans Affairs~~ Department of Military and Veterans**
26 **Affairs records.**

27 Notwithstanding any other provisions of Chapter 143B, no records of the ~~Division of Veterans~~
28 ~~Affairs in the Department of Administration~~ Department of Military and Veterans Affairs shall be
29 disclosed or used for any purpose except for official purposes, and no records shall be disclosed,
30 destroyed or used in any manner which is in violation of any existing federal law or regulation.
31 Nothing in this Chapter shall convert records which are the property of the federal government into
32 State property."

33 **SECTION 24.1.(hh)** G.S. 165-20, as recodified by subsection (c) of this section, reads
34 as rewritten:

35 **"§ 143B-1224. Definitions.**

36 As used in this Article the terms defined in this section shall have the following meaning:

37 ...

38 (3) "Child" means a person: (i) under 25 years of age at the time of application for a
39 scholarship, (ii) who is a domiciliary of North Carolina and is a resident of North
40 Carolina when applying for a scholarship, (iii) who has completed high school or
41 its equivalent prior to receipt of a scholarship awarded under this Article, (iv)
42 who has complied with the requirements of the Selective Service System, if
43 applicable, and (v) who further meets one of the following requirements:

44 a. A person whose veteran parent was a legal resident of North Carolina at
45 the time of said veteran's entrance into that period of service in the Armed
46 Forces during which eligibility is established under
47 ~~G.S. 165-22~~. G.S. 143B-1226.

48 b. A veteran's child who was born in North Carolina and has been a resident
49 of North Carolina continuously since birth. Provided, that the requirement
50 in the preceding sentence as to birth in North Carolina may be waived by
51 the Department of ~~Administration~~ Military and Veterans Affairs if it is

1 shown to the satisfaction of the Department that the child's mother was a
2 native-born resident of North Carolina and was such resident at the time
3 of her marriage to the veteran and was outside the State temporarily at the
4 time of the child's birth, following which the child was returned to North
5 Carolina within a reasonable period of time where said child has since
6 lived continuously.

- 7 c. A person meeting either of the requirements set forth in subdivision (3) a
8 or b above, and who was legally adopted by the veteran prior to said
9 person's reaching the age of 15 years.

10 ...
11 (5) "Private educational institution" means any junior college, senior college or
12 university which is operated and governed by private interests not under the
13 control of the federal, State or any local government, which is located within the
14 State of North Carolina, which does not operate for profit, whose curriculum is
15 primarily directed toward the awarding of associate, baccalaureate or graduate
16 degrees, which agrees to the applicable administration and funding provisions of
17 ~~G.S. 165-22.1~~, G.S. 143B-1227, of this Article, and which is otherwise approved
18 by the State Board of Veterans Affairs.

19"

20 **SECTION 24.1.(ii)** G.S. 165-21, as recodified by subsection (c) of this section, reads as
21 rewritten:

22 **"§ 143B-1225. Scholarship.**

23 (a) A scholarship granted pursuant to this Article shall consist of the following benefits in
24 either a State or private educational institution:

- 25 ...
26 (2) With respect to private educational institutions, a scholarship shall consist of a
27 monetary allowance as prescribed in ~~G.S. 165-22.1(d)~~ G.S. 143B-1227(d).

28"

29 **SECTION 24.1.(jj)** G.S. 165-22, as recodified by subsection (c) of this section, reads
30 as rewritten:

31 **"§ 143B-1226. Classes or categories of eligibility under which scholarships may be awarded.**

32 A child, as defined in this Article, who falls within the provisions of any eligibility class
33 described below shall, upon proper application be considered for a scholarship, subject to the
34 provisions and limitations set forth for the class under which the child is considered:

- 35 ...
36 (2) Class I-B: Under this class a limited scholarship providing only those benefits set
37 forth in ~~G.S. 165-21(1)a and d and 165-21(2) of this Article,~~
38 G.S. 143B-1225(a)(1)a. and d. and G.S. 143B-1225(a)(2) shall be awarded to any
39 child whose veteran parent, at the time the benefits pursuant to this Article are
40 sought to be availed of, is or was at the time of his death receiving compensation
41 for a wartime service-connected disability of one hundred percent (100%) as
42 rated by the United States Department of Veterans Affairs. Provided, that if the
43 veteran parent of a recipient under this class should die of his wartime
44 service-connected condition before the recipient shall have utilized all of his
45 scholarship eligibility time, then the North Carolina Department of
46 ~~Administration~~ Military and Veterans Affairs shall amend the recipient's award
47 from Class I-B to Class I-A for the remainder of the recipient's eligibility time.
48 The effective date of such an amended award shall be determined by the
49 Department of ~~Administration~~ Military and Veterans Affairs but, in no event
50 shall it predate the date of the veteran parent's death.

51 ...

- (4) Class III: Under this class a scholarship may be awarded to not more than 100 children yearly, each of whose veteran parent, at the time the benefits pursuant to this Article are sought to be availed of:
- a. Is or was at the time of his death drawing pension for permanent and total disability, nonservice-connected, as rated by the United States Department of Veterans Affairs.
 - b. Is deceased and who does not fall within the provisions of any other eligibility class described in ~~G.S. 165-22(1)~~, G.S. 143B-1226(1), (2), (3), (4)a., nor (5).
 - c. Served in a combat zone, or waters adjacent to a combat zone, or any other campaign, expedition, or engagement for which the United States Department of Defense authorizes a campaign badge or medal, who does not fall within the provisions of any other class described in ~~G.S. 165-22(1)~~, G.S. 143B-1226(1), (2), (3), (4)a., or (5).
- (5) Class IV: Under this class a scholarship as defined in ~~G.S. 165-21~~ G.S. 143B-1225 shall be awarded to any child whose parent, while serving honorably as a member of the Armed Forces in active federal service during a period of war, as defined in ~~G.S. 165-20(4)~~, G.S. 143B-1224(4), was listed by the United States government as (i) missing in action, (ii) captured in line of duty by a hostile force, or (iii) forcibly detained or interned in line of duty by a foreign government or power."

SECTION 24.1(kk) G.S. 165-22.1, as recodified by subsection (c) of this section, reads as rewritten:

"§ 143B-1227. Administration and funding.

(a) The administration of the scholarship program shall be vested in the Department of ~~Administration, Military and Veterans Affairs~~, and the disbursing and accounting activities required shall be a responsibility of the Department of ~~Administration, Military and Veterans Affairs~~. The ~~Veterans-Veterans'~~ Veterans' Affairs Commission shall determine the eligibility of applicants, select the scholarship recipients, establish the effective date of scholarships, and may suspend or revoke scholarships if the ~~said Veterans-Veterans'~~ Veterans' Affairs Commission finds that the recipient does not comply with the registration requirements of the Selective Service System or does not maintain an adequate academic status, or if the recipient engages in riots, unlawful demonstrations, the seizure of educational buildings, or otherwise engages in disorderly conduct, breaches of the peace or unlawful assemblies. The Department of ~~Administration, Military and Veterans Affairs~~ shall maintain the primary and necessary records, and the ~~Veterans-Veterans'~~ Veterans' Affairs Commission shall promulgate such rules and regulations not inconsistent with the other provisions of this Article as it deems necessary for the orderly administration of the program. It may require of State or private educational institutions, as defined in this Article, such reports and other information as it may need to carry out the provisions of this Article. The Department of ~~Administration, Military and Veterans Affairs~~ shall disburse scholarship payments for recipients certified eligible by the Department of ~~Administration, Military and Veterans Affairs~~ upon certification of enrollment by the enrolling institution.

(b) Funds for the support of this program shall be appropriated to the Department of ~~Administration, Military and Veterans Affairs~~ as a reserve for payment of the allocable costs for room, board, tuition, and other charges, and shall be placed in a separate budget code from which disbursements shall be made. Funds to support the program shall be supported by receipts from the Escheat Fund, as provided by G.S. 116B-7, but those funds may be used only for worthy and needy residents of this State who are enrolled in public institutions of higher education of this State. In the event the said appropriation for any year is insufficient to pay the full amounts allocable under the provisions of this Article, such supplemental sums as may be necessary shall be allocated from the Contingency and Emergency Fund. The method of disbursing and accounting for funds allocated

1 for payments under the provisions of this section shall be in accordance with those standards and
2 procedures prescribed by the Director of the Budget, pursuant to the ~~Executive Budget Act~~.State
3 Budget Act.

4 (c) Allowances for room and board in State educational institutions shall be at such rate as
5 established by the Secretary of the Department of ~~Administration~~.Military and Veterans Affairs.

6 (d) Scholarship recipients electing to attend a private educational institution shall be granted
7 a monetary allowance for each term or other academic period attended under their respective
8 scholarship awards. All recipients under Class I-B scholarship shall receive an allowance at one
9 rate, irrespective of course or institution; all recipients under Classes I-A, II, III and IV shall receive
10 a uniform allowance at a rate higher than for Class I-B, irrespective of course or institution. The
11 amount of said allowances shall be determined by the Director of the Budget and made known prior
12 to the beginning of each fall quarter or semester; provided that the Director of the Budget may
13 change the allowances at intermediate periods when in his judgment such changes are necessary.
14 Disbursements by the State shall be to the private institution concerned, for credit to the account of
15 each recipient attending said institution. The manner of payment to any private institution shall be
16 as prescribed by the Department of ~~Administration~~.Military and Veterans Affairs. The participation
17 by any private institution in the program shall be subject to the applicable provisions of this Article
18 and to examination by State auditors of the accounts of scholarship recipients attending or having
19 attended private institutions. The ~~Veterans~~-Veterans' Affairs Commission may defer making an
20 award or may suspend an award in any private institution which does not comply with the
21 provisions of this Article relating to said institutions.

22 (e) Irrespective of other provisions of this Article, the ~~Veterans~~-Veterans' Affairs
23 Commission may prescribe special procedures for adjusting the accounts of scholarship recipients
24 who for reasons of illness, physical inability to attend class or for other valid reason satisfactory to
25 the ~~Veterans~~-Veterans' Affairs Commission may withdraw from State or private educational
26 institutions prior to the completion of the term, semester, quarter or other academic period being
27 attended at the time of withdrawal. Such procedures may include, but shall not be limited to, paying
28 the recipient the dollar value of his unused entitlements for the academic period being attended,
29 with a corresponding deduction of this period from his remaining scholarship eligibility time."

30 **SECTION 24.1.(II)** G.S. 165-44.5, as recodified by subsection (j) of this section, reads
31 as rewritten:

32 **"§ 143B-1284. Priority employment assistance directed.**

33 All covered service providers, as specified in ~~G.S. 165-44.4~~, G.S. 143B-1283, shall establish
34 procedures to provide veterans with priority, not inconsistent with existing federal or State law, to
35 participate in employment and job training assistance programs."

36 **SECTION 24.1.(mm)** G.S. 165-44.6, as recodified by subsection (j) of this section,
37 reads as rewritten:

38 **"§ 143B-1285. Implementation and performance measures.**

39 The North Carolina Commission on Workforce Preparedness shall:

- 40 (1) Issue implementing directives that shall apply to all covered service providers as
41 specified in ~~G.S. 165-44.4~~, G.S. 143B-1283, and revise those directives as
42 necessary to accomplish the purpose of this Article.
- 43 (2) Develop measures of service for veterans that will serve as indicators of
44 compliance with the provisions of this Article by all covered service providers.
- 45 (3) Annually publish and submit to the Joint Legislative Commission on
46 Governmental Operations, beginning not later than October 1, 1998, a report
47 detailing covered providers' compliance with the provisions of this Article."

48 **SECTION 24.1.(nn)** G.S. 165-46, as recodified by subsection (k) of this section, reads
49 as rewritten:

50 **"§ 143B-1291. Establishment.**

1 The State of North Carolina shall construct, maintain, and operate veterans homes for the aged
2 and infirm veterans resident in this State under the administrative authority and control of the
3 ~~Division of Veterans Affairs of the Department of Administration.~~ Department of Military and
4 Veterans Affairs. There is vested in ~~such Division the Department~~ any and all powers and authority
5 that may be necessary to enable it to establish and operate the homes and to issue rules necessary to
6 operate the homes in compliance with applicable State and federal statutes and regulations."

7 **SECTION 24.1.(oo)** G.S. 165-47, as recodified by subsection (k) of this section, reads
8 as rewritten:

9 **"§ 143B-1292. Exemption from certificate of need.**

10 Any state veterans home established by the ~~Division of Veterans Affairs~~ Department of Military
11 and Veterans Affairs shall be exempt from the certificate of need requirements as set out in Article
12 9 of Chapter 131E, or as may be hereinafter enacted."

13 **SECTION 24.1.(pp)** G.S. 165-48, as recodified by subsection (k) of this section, reads
14 as rewritten:

15 **"§ 143B-1293. North Carolina Veterans Home Trust Fund.**

16 (a) Establishment. – A trust fund shall be established in the State treasury, for the ~~Division~~
17 ~~of Veterans Affairs,~~ Department of Military and Veterans Affairs, to be known as the North
18 Carolina Veterans Home Trust Fund.

19 (b) Composition. – The trust fund shall consist of all funds and monies received by the
20 ~~Veterans~~ Veterans' Affairs Commission ~~or the Division of Veterans Affairs~~ from the United States,
21 any federal agency or institution, and any other source, whether as a grant, appropriation, gift,
22 contribution, devise, or individual reimbursement, for the care and support of veterans who have
23 been admitted to a State veterans home.

24 (c) Use of Fund. – The trust fund created in subsection (a) of this section shall be used by
25 the ~~Division of Veterans Affairs.~~ Department of Military and Veterans Affairs to do the following:

- 26 (1) To pay for the care of veterans in said State veterans homes;
27 (2) To pay the general operating expenses of the State veterans homes, including the
28 payment of salaries and wages of officials and employees of said homes; and
29 (3) To remodel, repair, construct, modernize, or add improvements to buildings and
30 facilities at the homes.

31 (d) Miscellaneous. – The following provisions apply to the trust fund created in subsection
32 (a) of this section:

- 33 (1) All funds deposited and all income earned on the investment or reinvestment of
34 such funds shall be credited to the trust fund.
35 (2) Any monies remaining in the trust fund at the end of each fiscal year shall remain
36 on deposit in the State treasury to the credit of the North Carolina Veterans
37 Home Trust Fund.
38 (3) Nothing contained herein shall prohibit the establishment and utilization of
39 special agency accounts by the ~~Division of Veterans Affairs,~~ as may be approved
40 by the Veterans Veterans' Affairs Commission, for the receipt and disbursement
41 of personal funds of the State veterans homes' residents or for receipt and
42 disbursement of charitable contributions for use by and for residents."

43 **SECTION 24.1.(qq)** G.S. 165-49, as recodified by subsection (k) of this section, reads
44 as rewritten:

45 **"§ 143B-1294. Funding.**

46 (a) The ~~Division of Veterans Affairs of the Department of Administration~~ Department of
47 Military and Veterans Affairs may apply for and receive federal aid and assistance from the United
48 States Department of Veterans Affairs or any other agency of the United States Government
49 authorized to pay federal aid to states for the construction and acquisition of veterans homes under
50 Title 38, United States Code, section 8131 et seq., or for the care or support of disabled veterans in

1 State veterans homes under Title 38, United States Code, section 1741 et seq., or from any other
2 federal law for said purposes.

3 (b) The ~~Division of Veterans Affairs Department~~ may receive from any source any gift,
4 contribution, devise, or individual reimbursement, the receipt of which does not exclude any other
5 source of revenue.

6 (c) All funds received by the ~~Division Department~~ shall be deposited in the North Carolina
7 Veterans Home Trust Fund, except for any funds deposited into special agency accounts established
8 pursuant to ~~G.S. 165-48(d)(3)~~. G.S. 143B-1293(d)(3). The ~~Veterans~~ Veterans' Affairs Commission
9 shall authorize the expenditure of all funds from the North Carolina Veterans Home Trust Fund.
10 The ~~Veterans~~ Veterans' Affairs Commission may delegate authority to the Assistant Secretary of
11 Veterans Affairs for the expenditure of funds from the North Carolina Veterans Home Trust Fund
12 for operations of the State Veterans Nursing Homes."

13 **SECTION 24.1(rr)** G.S. 165-50, as recodified by subsection (k) of this section, reads
14 as rewritten:

15 **"§ 143B-1295. Contracted operation of homes.**

16 The ~~Veterans~~ Veterans' Affairs Commission may contract with persons or other
17 nongovernmental entities to operate each State veterans home. Contracts for the procurement of
18 services to manage, administer, and operate any State veterans home shall be awarded on a
19 competitive basis through the solicitation of proposals and through the procedures established by
20 statute and the Division of Purchase and Contract. A contract may be awarded to the vendor whose
21 proposal is most advantageous to the State, taking into consideration cost, program suitability,
22 management plan, excellence of program design, key personnel, corporate or company resources,
23 financial condition of the vendor, experience and past performance, and any other qualities deemed
24 necessary by the ~~Veterans~~ Veterans' Affairs Commission and set out in the solicitation for
25 proposals. Any contract awarded under this section shall not exceed five years in length. The
26 ~~Veterans~~ Veterans' Affairs Commission is not required to select or recommend the vendor offering
27 the lowest cost proposal but shall select or recommend the vendor who, in the opinion of the
28 Commission, offers the proposal most advantageous to the veterans and the State of North
29 Carolina."

30 **SECTION 24.1(ss)** G.S. 165-51, as recodified by subsection (k) of this section, reads
31 as rewritten:

32 **"§ 143B-1296. Program staff.**

33 The ~~Division Department~~ shall appoint and fix the salary of an Administrative Officer for the
34 State veterans home program. The Administrative Officer shall be an honorably discharged veteran
35 who has served in active military service in the Armed Forces of the United States for other than
36 training purposes. The Administrative Officer shall direct the establishment of the State veterans
37 home program, coordinate the master planning, land acquisition, and construction of all State
38 veterans homes under the procedures of the Office of State Construction, and oversee the ongoing
39 operation of said veterans homes. The Division may hire any required additional administrative
40 staff to help with administrative and operational responsibilities at each established State veterans
41 home."

42 **SECTION 24.1(tt)** G.S. 165-52, as recodified by subsection (k) of this section, reads
43 as rewritten:

44 **"§ 143B-1297. Admission and dismissal authority.**

45 The ~~Veterans~~ Veterans' Affairs Commission shall have authority to determine administrative
46 standards for admission and dismissal, as well as the medical conditions, of all persons admitted to
47 and dismissed from any State veterans home, and to issue any necessary rules, subject to the
48 requirements set out in ~~G.S. 165-53~~. G.S. 143B-1298."

49 **SECTION 24.1(uu)** G.S. 165-54, as recodified by subsection (k) of this section, reads
50 as rewritten:

51 **"§ 143B-1299. Deposit required.**

1 Each resident of any State veterans home shall pay to the ~~Division of Veterans Affairs~~
2 Department of Military and Veterans Affairs the cost of maintaining his or her residence at the
3 home. This deposit shall be placed in the North Carolina Veterans Home Trust Fund and shall be in
4 an amount and in the form prescribed by the ~~Veterans-Veterans'~~ Affairs Commission in consultation
5 with the Assistant Secretary for Veterans Affairs."

6 **SECTION 24.1.(vv)** G.S. 165-55, as recodified by subsection (k) of this section, reads
7 as rewritten:

8 **"§ 143B-1300. Report and budget.**

9 (a) The Assistant Secretary for Veterans Affairs shall report annually to the Secretary of the
10 Department of ~~Administration-Military and Veterans Affairs~~ on the activities of the State Veterans
11 Homes Program. This report shall contain an accounting of all monies received and expended,
12 statistics on residents in the homes during the year, recommendations to the Secretary, the
13 Governor, and the General Assembly as to the program, and such other matters as may be deemed
14 pertinent.

15 (b) The Assistant Secretary for Veterans Affairs, with the approval of the ~~Veterans-Veterans'~~
16 Affairs Commission, shall compile an annual budget request for any State funding needed for the
17 anticipated costs of the homes, which shall be submitted to the Secretary of the Department of
18 ~~Administration-Military and Veterans Affairs~~. State appropriated funds for operational needs shall
19 be made available only in the event that other sources are insufficient to cover essential operating
20 costs."

21 **SECTION 24.1.(ww)** This section becomes effective on January 1, 2016.
22
23

24 **Senate Only**

25 **RESTORE STATE CONTRIBUTION TO COUNTY VETERANS SERVICES PROGRAMS**

26 **SECTION 24.2.** G.S. 143B-1211, as enacted by Section 24.1(b) of this act, is amended
27 by adding a new subdivision to read:

28 **"§ 143B-1211. Powers and duties of the Department of Military and Veterans Affairs.**

29 It shall be the duty of the Department of Military and Veterans Affairs to do all of the following:
30

31 ...

32 (24) Contribute each fiscal year to each county that applies for it an amount for the
33 maintenance and operation of a county veterans services program. Participating
34 counties shall furnish the Department such reports, accountings, and other
35 information at such times and in such form as the Department may require. The
36 amount contributed to each county under this subdivision shall be as follows:

37 a. If funds appropriated to the Department for contributions under this
38 subdivision exceed the total amount of county requests received by
39 December 31 of each year, the contribution to each county shall be the
40 full amount requested by each county.

41 b. If the funds appropriated to the Department for contributions under this
42 subdivision are insufficient to fund the full amount of county requests
43 received by December 31 of each year, the contribution to each county
44 shall be a pro rata share of the amount appropriated to the Department for
45 contributions under this section, up to the amount requested by the
46 county."

47 **Senate Only**

48 **BRAC SPECIAL FUND**

49 **SECTION 24.3.(a)** Part 1 of Article 14 of Chapter 143B of the General Statutes, as
50 enacted by Section 24.1 of this act, is amended by adding a new section to read:

1 **"§ 143B-1214. Military Presence Stabilization Fund.**

2 The Military Presence Stabilization Fund is established as a special fund in the Department of
3 Military and Veterans Affairs. Funds in the Military Presence Stabilization Fund shall be used to
4 fund actions designed to make the State less vulnerable to closure pursuant to federal Base
5 Realignment and Closure and related initiatives. The Secretary of Military and Veterans Affairs
6 may allocate funds in the Fund for this purpose."

7 **SECTION 24.3.(b)** Notwithstanding G.S. 143B-1214, the funds appropriated in this act
8 to the Military Presence Stabilization Fund for the 2015-2016 fiscal year shall not be used to
9 provide grants to local communities or military installations and shall only be used for the
10 following:

- 11 (1) Administrative expenses and reimbursements for members of the Commission.
- 12 (2) Federal advocacy and lobbying support.
- 13 (3) Updates to strategic planning analysis and strategic plan.
- 14 (4) Economic modeling software and analyses.
- 15 (5) Compatible development mapping (red, yellow, green mapping)
- 16 (6) Public-public/public-private (P4) initiative.
- 17 (7) Identification and implementation of innovated measures to increase the military
18 value of installations.

19 **SECTION 24.3.(c)** The Department of Military and Veterans Affairs shall report to the
20 Joint Legislative Oversight Committee on General Government no later than December 1, 2015, on
21 the expenditures from the Military Presence Stabilization Fund.
22
23

24 **Senate Only**

25 **PROJECT HEALING WATERS FLY FISHING PROGRAM**

26 **SECTION 24.4.(a)** Notwithstanding any provision of this act to the contrary, of the
27 funds transferred to the Department of Military and Veterans Affairs as part of the transfer of
28 central administrative staff and field operations staff from the Department of Administration to the
29 new Department of Military and Veterans Affairs, the sum of twenty-five thousand dollars
30 (\$25,000) for the 2015-2016 fiscal year and the sum of twenty-five thousand dollars (\$25,000) for
31 the 2016-2017 fiscal year shall be used to create a grant-in-aid program to assist veterans with
32 recreational activities provided through the Project Healing Waters Fly Fishing program.
33
34

35 **Senate Only**

36 **EXPAND COMMUNITY LIVING HOUSING FUND USES**

37 **SECTION 25A.1.** G.S. 122E-3.1 reads as rewritten:
38 **"§ 122E-3.1. Community Living Housing Fund.**

39 ...

40 (c) Use of Funds. – The North Carolina Housing Finance Agency, in consultation with the
41 Department of Health and Human Services, shall be responsible for administering the Community
42 Living Housing Fund. The monies in the Fund shall be available for expenditure only upon an act of
43 appropriation by the General Assembly and only for the following purposes:

- 44 (1) To provide permanent community-based housing in integrated settings
45 appropriate for individuals with severe mental illness and severe and persistent
46 mental illness.
- 47 (2) To support an increase in the number of targeted units for individuals with
48 disabilities located in housing projects funded by the Housing Finance Agency
49 from ten percent (10%) to fifteen percent (15%). The additional targeted units
50 funded shall be made available to the Department of Health and Human Services

for use in the North Carolina Supportive Housing Program under Article 1B of Chapter 122C of the General Statutes. Priority for funding of the additional targeted units shall be given to units to be located in catchment areas identified by the Department of Health and Human Services, in consultation with the North Carolina Housing Finance Agency and LMECOs, as having the greatest need for targeted units.

(3) To provide property rehabilitation.

(4) To recruit property owners who are willing to rent targeted units to individuals with disabilities."

Identical House and Senate

STOP FRAUD AND ABUSE OF TAXPAYER DOLLARS

SECTION 25.1.(a) G.S. 143-746 reads as rewritten:

"§ 143-746. Internal auditing required.

...

(e) Insufficient Personnel. – If a State agency has insufficient personnel to comply with this section, the Office of State Budget and Management shall provide technical assistance.

(f) Reporting Fraudulent Activity. – If an internal audit conducted pursuant to this section results in a finding that a private person or entity has received public funds as a result of fraud, misrepresentation, or other deceptive acts or practices while doing business with the State agency, the internal auditor shall submit a detailed written report of the finding, and any additional necessary supporting documentation, to the State Purchasing Officer. A report submitted under this subsection may include a recommendation that the private person or entity be debarred from doing business with the State or a political subdivision thereof."

SECTION 25.1.(b) G.S. 147-64.6(c) is amended by adding a new subdivision to read:

"(c) The Auditor shall be responsible for the following acts and activities:

...

(21) If an audit undertaken by the Auditor results in a finding that a private person or entity has received public funds as a result of fraud, misrepresentation, or other deceptive acts or practices while doing business with the State or a political subdivision thereof, the Auditor shall submit a detailed written report of the finding, and any additional necessary supporting documentation, to the State Purchasing Officer or the appropriate political subdivision official, as applicable. A report submitted under this subsection may include a recommendation that the private person or entity be debarred from doing business with the State or a political subdivision thereof."

SECTION 25.1.(c) This section becomes effective October 1, 2015, and applies to audits conducted or undertaken on or after that date.

Senate Only

USE S&P SETTLEMENT FUNDS TO SUPPORT WORKFORCE HOUSING LOAN PROGRAM

SECTION 25A.2. Of the funds received by the State pursuant to the settlement agreement in *North Carolina ex rel. Cooper v. The McGraw-Hill Companies, Inc., and Standard & Poor's Financial Services LLC*, No. 13CVS 001703, the sum of ten million dollars (\$10,000,000) shall be used to provide loans under the Workforce Housing Loan Program of the Housing Finance Agency for the 2015-2016 year, the sum of nine million three hundred thousand dollars (\$9,300,000) shall be used to provide loans under the Workforce Housing Loan Program of the

1 Housing Finance Agency for the 2016-2017, and these funds are hereby appropriated for those
2 purposes.
3
4

5 **House Only**

6 **DISCONTINUE USE OF AUTOMATIC SCORING AND SCREENING OF**
7 **APPLICATIONS FOR STATE GOVERNMENT EMPLOYMENT**

8 **SECTION 26.1.** By October 1, 2015, the Office of State Human Resources (OSHR)
9 shall report to the Joint Legislative Oversight Committee on General Government on the status of
10 discontinuing the utilization of its current online job application and career portal that provides
11 automatic scoring and screening of applications for State government employment as was required
12 by S.L. 2014-100, s. 22A.1.
13
14

15 **Senate Only**

16 **PERSONAL SERVICES CONTRACTS/TEMPORARY SOLUTIONS**

17 **SECTION 26.2.(a)** Article 3 of Chapter 143 of the General Statutes is amended by
18 adding a new section to read:

19 **"§ 143-48.6. Personal services contracts subject to Article.**

20 (a) Requirement. – Notwithstanding any other provision of law, personal services contracts
21 for executive branch agencies shall be subject to the same requirements and procedures as service
22 contracts.

23 (b) Personal Services Contract Defined. – For purposes of this section, the term "personal
24 services contract" means a contract for services provided by a professional individual as an
25 independent contractor on a temporary or occasional basis.

26 (c) Rules Required. – The Department of Administration shall adopt rules consistent with
27 this section."

28 **SECTION 26.2.(b)** Part 4 of Article 14 of Chapter 143B of the General Statutes, as
29 enacted by this act, is amended by adding a new section to read:

30 **"§ 143B-1334A. Personal services contracts subject to Article.**

31 (a) Requirement. – Notwithstanding any other provision of law, information technology
32 personal services contracts for executive branch agencies shall be subject to the same requirements
33 and procedures as information technology service contracts, except as provided in this section.

34 (b) Certain Approvals Required. – Notwithstanding any provision of law to the contrary, no
35 information technology personal services contract, nor any contract that provides personnel to
36 perform information technology functions regardless of the cost of the contract, may be established
37 or renewed without written approval from the Office of Information Technology Services and the
38 Office of State Budget and Management. To facilitate compliance with this requirement, the Office
39 of Information Technology Services shall develop and document the following:

40 (1) Standards for determining whether it is more appropriate for an agency to hire an
41 employee or use the services of a vendor.

42 (2) A process to monitor all State agency information technology personal services
43 contracts, as well as any other State contracts providing personnel to perform
44 information technology functions.

45 (3) A process for obtaining approval of contractor positions.

46 (c) Creation of State Positions in Certain Cases. – The Office of Information Technology
47 Services shall review current information technology personal services contracts on an ongoing
48 basis and determine if each contractor is performing a function that could more appropriately be
49 performed by a State employee. Where the determination is made that a State employee should be

performing the function, the Office of Information Technology Services shall work with the impacted agency and the Office of State Personnel to identify or create the position.

(d) Compliance Audits Required. – The Office of Information Technology Services shall conduct periodic audits of State agencies that are subject to this Article to determine the degree to which those agencies are complying with the rules and procedures that govern information technology personal services contracts.

(e) Reporting Required. – The Office of Information Technology Services shall report biennially to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on all of the following:

(1) Its progress toward standardizing information technology personal services contracts.

(2) The number of information technology service contractors in each State agency, the cost for each, and the comparable cost, including benefits, of a State employee serving in that capacity rather than a contractor.

(3) The results of the compliance audits conducted pursuant to subsection (d) of this section.

(f) Information Technology Personal Services Contract Defined. – For purposes of this section, the term "personal services contract" means a contract for services provided by a professional individual as an independent contractor on a temporary or occasional basis.

(g) Rules Required. – The Office of Information Technology Services shall adopt rules consistent with this section."

SECTION 26.2.(c) Personal services contracts and information technology personal services contracts in effect on the effective date of this act shall be allowed to expire in accordance with the terms of the contract. A personal services contract or an information technology personal services contract that can be terminated at any time shall be reviewed within 60 days of the effective date of this act and shall only be continued if the contract complies with the requirements of G.S. 143-48.6 and G.S. 143B-1334A, as enacted by subsections (a) and (b) of this section, respectively. A personal services contract or information technology personal services contract entered into after the effective date of this act shall comply with the requirements of G.S. 143-48.6 or G.S. 143B-1334A, as applicable.

SECTION 26.2.(d) G.S. 143-64.70 is repealed. The Office of State Budget and Management shall notify State agencies of the repeal of G.S. 143-64.70 and about the new requirements imposed by this act.

SECTION 26.2.(e) Article 1 of Chapter 126 of the General Statutes is amended by adding a new section to read:

"§ 126-6.3. Temporary employment needs of State agencies shall be met through the Temporary Solutions Program.

(a) Use of Temporary Solutions Required. – Notwithstanding G.S. 126-5 or any other provision of law, all State agencies that utilize temporary employees to perform work that is not information technology-related shall employ them through the Temporary Solutions Program administered by the Office of State Human Resources. The Director of the Office of State Human Resources may create exceptions to this requirement when doing so would be in the best interests of the State in the sole discretion of the Director. An exception shall be invalid unless it is in writing.

(b) Compliance Monitoring. – The Office of State Human Resources shall monitor the employment of temporary employees by agencies subject to this section and shall report biannually to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division on agency compliance with this section and policies and rules adopted pursuant to it.

(c) State Agency Defined. – For purposes of this section, "State agency" means a unit of the executive branch of State government, such as a department, an institution, a division, a commission, a board, or a council, regardless of whether or not the agency is part of the Council of State."

1 **SECTION 26.2.(f)** G.S. 126-4 is amended by adding a new subdivision to read:

2 **"§ 126-4. Powers and duties of State Human Resources Commission.**

3 Subject to the approval of the Governor, the State Human Resources Commission shall establish
4 policies and rules governing each of the following:

5 ...

6 (19) The implementation of G.S. 126-6.3 in a manner that is consistent across all
7 affected State agencies."

10 **Identical House and Senate**

11 **DOA PROVIDE ADMINISTRATIVE SUPPORT TO SEC FREE OF CHARGE;**

12 **SECTION 27.1.** G.S. 138A-9 reads as rewritten:

13 **"§ 138A-9. Staff and offices.**

14 (a) The Commission may employ professional and clerical staff, including an executive
15 director.

16 (b) The Commission shall be located within the Department of Administration for
17 administrative purposes only, but shall exercise all of its powers, including the power to employ,
18 direct, and supervise all personnel, independently of the Secretary of Administration, and is subject
19 to the direction and supervision of the Secretary of Administration only with respect to the
20 management functions of coordinating and reporting. The Department shall provide administrative
21 support to the Commission free of charge."

23 **Senate Only**

24 **ALLOW FOR ELECTRONIC ADVERTISEMENT OF LEASE PROPOSALS**

25 **SECTION 27.2.** G.S. 146-25.1 reads as rewritten:

26 **"§ 146-25.1. Proposals to be secured for leases.**

27 (a) If pursuant to G.S. 146-25, the Department of Administration determines that it is in the
28 best interest of the State to lease or rent land and the rental is estimated to exceed twenty-five
29 thousand dollars (\$25,000) per year or the term will exceed three years, the Department shall
30 require the State agency desiring to rent land to prepare and submit for its approval a set of
31 specifications for its needs. Upon approval of specifications, the Department shall prepare a public
32 advertisement. ~~The State agency shall place such advertisement in a newspaper of general~~
33 ~~circulation in the county for proposals from prospective lessors of said land and shall make such~~
34 ~~other distribution thereof as the Department directs. The advertisement shall be run for at least five~~
35 ~~consecutive days, and shall provide that proposals shall be received for at least seven days from the~~
36 ~~date of the last advertisement in the State Property Office of the Department. The provisions of this~~
37 ~~section do not apply to property owned by governmental agencies and leased to other governmental~~
38 ~~agencies; advertisement and shall publish it by one or more of the following methods, as determined~~
39 ~~by the Department of Administration:~~

40 (1) Placement in a newspaper of general circulation in the county. The advertisement
41 shall be run for at least five consecutive days and shall provide that proposals
42 shall be received for at least seven days from the date of the last advertisement in
43 the State Property Office.

44 (2) Through electronic means. If posted on a Web site, the advertisement shall be
45 accessible for at least five consecutive days and shall provide that proposals shall
46 be received for at least seven days from the date of the fifth day in the State
47 Property Office.

48 (3) Through such other methods of distribution as the Department of Administration
49 directs.

50 ...

(d) The provisions of this section do not apply to property owned by governmental agencies and leased to other governmental agencies."

House and Senate Differ

House Version

STREAMLINE SEIZED VEHICLE DISPOSAL

SECTION 27.3.(a) G.S. 20-28.2(a1) is amended by adding a new subdivision to read:

"(a1) Definitions. – As used in this section and in G.S. 20-28.3, 20-28.4, 20-28.5, 20-28.7, 20-28.8, 20-28.9, 20-54.1, and 20-141.5, the following terms mean:

...

(9) State Surplus Property Agency. – The Department of Administration."

SECTION 27.3.(b) G.S. 20-28.3 reads as rewritten:

"§ 20-28.3. Seizure, impoundment, forfeiture of motor vehicles for offenses involving impaired driving while license revoked or without license and insurance, and for felony speeding to elude arrest.

...

(d) Custody of Motor Vehicle. – Unless the motor vehicle is towed pursuant to a statewide or regional contract, or a contract with the county board of education, the seized motor vehicle shall be towed by a commercial towing company designated by the law enforcement agency that seized the motor vehicle. Seized motor vehicles not towed pursuant to a statewide or regional contract or a contract with a county board of education shall be retrieved from the commercial towing company within a reasonable time, not to exceed 10 business days, by the county board of education or their agent who must pay towing and storage fees to the commercial towing company when the motor vehicle is retrieved. If either a statewide or regional contractor, or the county board of education, chooses to contract for local towing services, all towing companies on the towing list for each law enforcement agency with jurisdiction within the county shall be given written notice and an opportunity to submit proposals prior to a contract for local towing services being awarded. The seized motor vehicle is under the constructive possession of the county board of education for the county in which the operator of the vehicle is charged at the time the vehicle is delivered to a location designated by the county board of education or delivered to its agent pending release or sale, or in the event a statewide or regional contract is in place, under the constructive possession of the ~~Department of Public Instruction, State Surplus Property Agency~~ on behalf of the State at the time the vehicle is delivered to a location designated by the ~~Department of Public Instruction~~ State Surplus Property Agency or delivered to its agent pending release or sale. Absent a statewide or regional contract that provides otherwise, each county board of education may elect to have seized motor vehicles stored on property owned or leased by the county board of education and charge a reasonable fee for storage, not to exceed ten dollars (\$10.00) per calendar day. In the alternative, the county board of education may contract with a commercial towing and storage facility or other private entity for the towing, storage, and disposal of seized motor vehicles, and a storage fee of not more than ten dollars (\$10.00) per calendar day may be charged. Except for gross negligence or intentional misconduct, neither the State Surplus Property Agency, the county board of education, ~~or nor~~ any of ~~its~~ their employees, shall ~~not~~ be liable to the owner or lienholder for damage to or loss of the motor vehicle or its contents, or to the owner of personal property in a seized vehicle, during the time the motor vehicle is being towed or stored pursuant to this subsection.

...

(i) Expedited Sale of Seized Motor Vehicles in Certain Cases. – In order to avoid additional liability for towing and storage costs pending resolution of the criminal proceedings of the defendant, the State Surplus Property Agency or county board of education may, after expiration of

90 days from the date of seizure, sell any motor vehicle having a fair market value of one thousand five hundred dollars (\$1,500) or less. The county board of education may also sell a motor vehicle, regardless of the fair market value, any time the outstanding towing and storage costs exceed eighty-five percent (85%) of the fair market value of the vehicle, or with the consent of all the motor vehicle owners. Any sale conducted pursuant to this subsection shall be conducted in accordance with the provisions of ~~G.S. 20-28.5(a)~~, G.S. 20-28.5(a) or G.S. 20-28.5(a1), as applicable, and the proceeds of the sale, after the payment of outstanding ~~towing and storage~~ towing, storage, and other costs or reimbursement of towing and storage costs paid by a person other than the defendant, shall be deposited with the clerk of superior court. If an order of forfeiture is entered by the court, the court shall order the proceeds held by the clerk to be disbursed as provided in G.S. 20-28.5(b). If the court determines that the motor vehicle is not subject to forfeiture, the court shall order the proceeds held by the clerk to be disbursed first to pay the sale, towing, and storage costs, second to pay outstanding liens on the motor vehicle, and the balance to be paid to the motor vehicle owners.

...."

SECTION 27.3.(c) G.S. 20-28.5 reads as rewritten:
"§ 20-28.5. Forfeiture of impounded motor vehicle or funds.

(a) Sale of Vehicle in Possession of County Board of Education. – A motor vehicle in the possession or constructive possession of a county board of education ordered forfeited and sold or a seized motor vehicle authorized to be sold pursuant to G.S. 20-28.3(i), shall be sold at a public sale conducted in accordance with the provisions of Article 12 of Chapter 160A of the General Statutes, applicable to sales authorized pursuant to G.S. 160A-266(a)(2), (3), or (4), subject to the notice requirements of this subsection, and shall be conducted by the county board of education or a person acting on its behalf. Notice of sale, including the date, time, location, and manner of sale, shall be given by first-class mail to all motor vehicle owners of the vehicle to be sold at the address shown by the records of the Division. Written notice of sale shall also be given to all lienholders on file with the Division. Notice of sale shall be given to the Division in accordance with the procedures established by the Division. Notices required to be given under this subsection shall be mailed at least 10 days prior to the date of sale. A lienholder shall be permitted to purchase the motor vehicle at any such sale by bidding in the amount of its lien, if that should be the highest bid, without being required to tender any additional funds, other than the towing and storage fees. The county board of education, or its agent, shall not sell, give, or otherwise transfer possession of the forfeited motor vehicle to the defendant, the motor vehicle owner who owned the motor vehicle immediately prior to forfeiture, or any person acting on the defendant's or motor vehicle owner's behalf.

(a1) Sale of Vehicle in Possession of the State Surplus Property Agency. – A motor vehicle in the possession or constructive possession of the State Surplus Property Agency ordered forfeited and sold or a seized motor vehicle authorized to be sold pursuant to G.S. 20-28.3(i) shall be sold at a public sale conducted in accordance with the provisions of Article 3A of Chapter 143 of the General Statutes, subject to the notice requirements of this subsection, and shall be conducted by the State Surplus Property Agency or a person acting on its behalf. Notice of sale, including the date, time, location, and manner of sale, shall be given by first-class mail to all motor vehicle owners of the vehicle to be sold at the address shown by the records of the Division. Written notice of sale shall also be given to all lienholders on file with the Division. Notice of sale shall be given to the Division in accordance with the procedures established by the State Surplus Property Agency. Notices required to be given under this subsection shall be mailed at least 10 days prior to the date of sale. A lienholder shall be permitted to purchase the motor vehicle at any such sale by bidding in the amount of its lien, if that should be the highest bid, without being required to tender any additional funds, other than the towing and storage fees. The State Surplus Property Agency, or its agent, shall not sell, give, or otherwise transfer possession of the forfeited motor vehicle to the

1 defendant, the motor vehicle owner who owned the motor vehicle immediately prior to forfeiture, or
2 any person acting on the defendant's or motor vehicle owner's behalf.

3 (b) Proceeds of Sale. – Proceeds of any sale conducted under this section,
4 G.S. 20-28.2(f)(5), or G.S. 20-28.3(e3)(3), shall first be applied to ~~the cost of sale~~ all costs incurred
5 by the State Surplus Property Agency or county board of education and then to satisfy towing and
6 storage costs. The balance of the proceeds of sale, if any, shall be used to satisfy any other existing
7 liens of record that were properly recorded prior to the date of initial seizure of the vehicle. Any
8 remaining balance shall be paid to the county school fund in the county in which the motor vehicle
9 was ordered forfeited. If there is more than one school board in the county, then the net proceeds of
10 sale, after reimbursement to the county board of education of reasonable administrative costs
11 incurred in connection with the forfeiture and sale of the motor vehicle, shall be distributed in the
12 same manner as fines and other forfeitures. The sale of a motor vehicle pursuant to this section shall
13 be deemed to extinguish all existing liens on the motor vehicle and the motor vehicle shall be
14 transferred free and clear of any liens.

15"

16 **SECTION 27.3.(d)** G.S. 20-28.9 reads as rewritten:
17 "**§ 20-28.9. Authority for the ~~Department of Public Instruction~~ State Surplus Property**
18 **Agency to administer a statewide or regional towing, storage, and sales program**
19 **for vehicles forfeited.**

20 (a) ~~The Department of Public Instruction~~ State Surplus Property Agency is authorized to
21 enter into a contract for a statewide service or contracts for regional services to tow, store, process,
22 maintain, and sell motor vehicles seized pursuant to G.S. 20-28.3. All motor vehicles seized under
23 G.S. 20-28.3 shall be subject to contracts entered into pursuant to this section. Contracts shall be let
24 by the ~~Department of Public Instruction~~ State Surplus Property Agency in accordance with the
25 provisions of Article 3 of Chapter 143 of the General Statutes. Nothing in this section shall be
26 construed to prohibit the State Surplus Property Agency from entering into contracts pursuant to
27 this section for some regions of the State while performing the work of towing, storing, processing,
28 maintaining, and selling motor vehicles seized pursuant to G.S. 20-28.3 itself in other regions of the
29 State. All contracts shall ensure the safety of the motor vehicles while held and any funds arising
30 from the sale of any seized motor vehicle. The contract shall require the contractor to maintain and
31 make available to the agency a computerized up-to-date inventory of all motor vehicles held under
32 the contract, together with an accounting of all accrued charges, the status of the vehicle, and the
33 county school fund to which the proceeds of sale are to be paid. The contract shall provide that the
34 contractor shall pay the towing and storage charges owed on a seized vehicle to a commercial
35 towing company at the time the seized vehicle is obtained from the commercial towing company,
36 with the contractor being reimbursed this expense when the vehicle is released or sold. The
37 ~~Department~~ State Surplus Property Agency shall not enter into any contract under this section under
38 which the State will be obligated to pay a deficiency arising from the sale of any forfeited motor
39 vehicle.

40 (b) ~~The Department,~~ State Surplus Property Agency, through its contractor or contractors
41 designated in accordance with subsection (a) of this section, may charge a reasonable fee for storage
42 not to exceed ten dollars (\$10.00) per calendar day for the storage of seized vehicles pursuant to
43 G.S. 20-28.3.

44 (c) ~~In order to help defray the administrative costs associated with the administration of this~~
45 ~~section, the Department shall collect a ten dollar (\$10.00) administrative fee from a person to whom~~
46 ~~a seized vehicle is released at the time the motor vehicle is released and shall collect a ten dollar~~
47 ~~(\$10.00) administrative fee out of the proceeds of the sale of any forfeited motor vehicle. The funds~~
48 ~~collected under this subsection shall be paid to the General Fund."~~

49 **SECTION 27.3.(e)** G.S. 143-64.02 is amended by adding two new subdivisions to read:
50 "**§ 143-64.02. Definitions.**

51 As used in Part 1 of this Article, except where the context clearly requires otherwise:

- (1) "Agency" means an existing department, institution, commission, committee, board, division, or bureau of the State.
- (2) "Nonprofit tax exempt organizations" means those nonprofit tax exempt medical institutions, hospitals, clinics, health centers, school systems, schools, colleges, universities, schools for the mentally retarded, schools for the physically handicapped, radio and television stations licensed by the Federal Communications Commission as educational radio or educational television stations, public libraries, and civil defense organizations, that have been certified by the Internal Revenue Service as tax-exempt nonprofit organizations under section 501(c)(3) of the United States Internal Revenue Code of 1954.
- (3) "Recyclable material" means a recyclable material, as defined in G.S. 130A-290, that the Secretary of Administration determines, consistent with G.S. 130A-309.14, to be a recyclable material.
- (4) "State owned" means supplies, materials, and equipment in the possession of the State of North Carolina and purchased with State funds, personal property donated to the State, or personal property purchased with other funds that give ownership to the State.
- (5) "Surplus property" means personal property that is no longer needed by a State agency."

SECTION 27.3.(f) G.S. 143-64.03 reads as rewritten:

"§ 143-64.03. Powers and duties of the State agency for surplus property.

(a) The State Surplus Property Agency is authorized and directed to:

- (1) Sell all State owned supplies, materials, and equipment that are surplus, obsolete, or ~~unused~~; unused and sell all seized vehicles and other conveyances that the State Surplus Property Agency is authorized to sell;
- (2) Warehouse such property; and
- (3) Distribute such property to tax-supported or nonprofit tax-exempt organizations.

(b) The State Surplus Property Agency is authorized and empowered to act as a clearinghouse of information for agencies and private nonprofit tax-exempt organizations, to locate property available for acquisition from State agencies, to ascertain the terms and conditions under which the property may be obtained, to receive requests from agencies and private nonprofit tax-exempt organizations, and transmit all available information about the property, and to aid and assist the agencies and private nonprofit tax-exempt organizations in transactions for the acquisition of State surplus property.

(c) The State agency for surplus property, in the administration of Part 1 of this Article, shall cooperate to the fullest extent consistent with the provisions of Part 1 of this Article, with the departments or agencies of the State.

(d) The State agency for surplus property may sell or otherwise dispose of surplus property, including motor vehicles, through an electronic auction service."

SECTION 27.3.(g) G.S. 143-64.05(a) reads as rewritten:

"§ 143-64.05. Service charge; receipts.

(a) The State agency for surplus property may assess and collect a service charge (i) for the acquisition, receipt, warehousing, distribution, or transfer of any State surplus ~~property and property~~; (ii) for the transfer or sale of recyclable ~~material~~; and (iii) for the towing, storing, processing, maintaining, and selling of motor vehicles seized pursuant to G.S. 20-28.3. The service charge authorized by this subsection does not apply to the transfer or sale of timber on land owned by the Wildlife Resources Commission or the Department of Agriculture and Consumer Services."

Senate Version

STREAMLINE SEIZED VEHICLE DISPOSAL

1 **SECTION 27.3.(a)** G.S. 20-28.2(a1) is amended by adding a new subdivision to read:
2 "(a1) Definitions. – As used in this section and in G.S. 20-28.3, 20-28.4, 20-28.5, 20-28.7,
3 20-28.8, 20-28.9, 20-54.1, and 20-141.5, the following terms mean:

4 ...
5 (9) State Surplus Property Agency. – The Department of Administration."

6 **SECTION 27.3.(b)** G.S. 20-28.3 reads as rewritten:

7 **"§ 20-28.3. Seizure, impoundment, forfeiture of motor vehicles for offenses involving**
8 **impaired driving while license revoked or without license and insurance, and for**
9 **felony speeding to elude arrest.**

10 ...
11 (d) Custody of Motor Vehicle. – Unless the motor vehicle is towed pursuant to a statewide
12 or regional contract, or a contract with the county board of education, the seized motor vehicle shall
13 be towed by a commercial towing company designated by the law enforcement agency that seized
14 the motor vehicle. Seized motor vehicles not towed pursuant to a statewide or regional contract or a
15 contract with a county board of education shall be retrieved from the commercial towing company
16 within a reasonable time, not to exceed 10 business days, by the county board of education or their
17 agent who must pay towing and storage fees to the commercial towing company when the motor
18 vehicle is retrieved. If either a statewide or regional contractor, or the county board of education,
19 chooses to contract for local towing services, all towing companies on the towing list for each law
20 enforcement agency with jurisdiction within the county shall be given written notice and an
21 opportunity to submit proposals prior to a contract for local towing services being awarded. The
22 seized motor vehicle is under the constructive possession of the county board of education for the
23 county in which the operator of the vehicle is charged at the time the vehicle is delivered to a
24 location designated by the county board of education or delivered to its agent pending release or
25 sale, or in the event a statewide or regional contract is in place, under the constructive possession of
26 the ~~Department of Public Instruction, State Surplus Property Agency~~ on behalf of the State at the
27 time the vehicle is delivered to a location designated by the ~~Department of Public Instruction~~ State
28 Surplus Property Agency or delivered to its agent pending release or sale. Absent a statewide or
29 regional contract that provides otherwise, each county board of education may elect to have seized
30 motor vehicles stored on property owned or leased by the county board of education and charge a
31 reasonable fee for storage, not to exceed ten dollars (\$10.00) per calendar day. In the alternative, the
32 county board of education may contract with a commercial towing and storage facility or other
33 private entity for the towing, storage, and disposal of seized motor vehicles, and a storage fee of not
34 more than ten dollars (\$10.00) per calendar day may be charged. Except for gross negligence or
35 intentional misconduct, neither the State Surplus Property Agency, the county board of education,
36 ~~or nor any of its their~~ employees, shall ~~not~~ be liable to the owner or lienholder for damage to or loss
37 of the motor vehicle or its contents, or to the owner of personal property in a seized vehicle, during
38 the time the motor vehicle is being towed or stored pursuant to this subsection.

39 ...
40 (i) Expedited Sale of Seized Motor Vehicles in Certain Cases. – In order to avoid additional
41 liability for towing and storage costs pending resolution of the criminal proceedings of the
42 defendant, the State Surplus Property Agency or county board of education may, after expiration of
43 90 days from the date of seizure, sell any motor vehicle having a fair market value of one thousand
44 five hundred dollars (\$1,500) or less. The county board of education may also sell a motor vehicle,
45 regardless of the fair market value, any time the outstanding towing and storage costs exceed
46 eighty-five percent (85%) of the fair market value of the vehicle, or with the consent of all the
47 motor vehicle owners. Any sale conducted pursuant to this subsection shall be conducted in
48 accordance with the provisions of ~~G.S. 20-28.5(a),~~ G.S. 20-28.5(a) or G.S. 20-28.5(a1), as
49 applicable, and the proceeds of the sale, after the payment of outstanding towing and storage costs
50 or reimbursement of towing and storage costs paid by a person other than the defendant, shall be
51 deposited with the clerk of superior court. If an order of forfeiture is entered by the court, the court

1 shall order the proceeds held by the clerk to be disbursed as provided in G.S. 20-28.5(b). If the court
2 determines that the motor vehicle is not subject to forfeiture, the court shall order the proceeds held
3 by the clerk to be disbursed first to pay the sale, towing, and storage costs, second to pay
4 outstanding liens on the motor vehicle, and the balance to be paid to the motor vehicle owners.

5"

6 **SECTION 27.3.(c)** G.S. 20-28.5 reads as rewritten:

7 **"§ 20-28.5. Forfeiture of impounded motor vehicle or funds.**

8 (a) Sale of Vehicle in Possession of County Board of Education. – A motor vehicle in
9 the possession or constructive possession of a county board of education ordered forfeited and sold
10 or a seized motor vehicle authorized to be sold pursuant to G.S. 20-28.3(i), shall be sold at a public
11 sale conducted in accordance with the provisions of Article 12 of Chapter 160A of the General
12 Statutes, applicable to sales authorized pursuant to G.S. 160A-266(a)(2), (3), or (4), subject to the
13 notice requirements of this subsection, and shall be conducted by the county board of education or a
14 person acting on its behalf. Notice of sale, including the date, time, location, and manner of sale,
15 shall be given by first-class mail to all motor vehicle owners of the vehicle to be sold at the address
16 shown by the records of the Division. Written notice of sale shall also be given to all lienholders on
17 file with the Division. Notice of sale shall be given to the Division in accordance with the
18 procedures established by the Division. Notices required to be given under this subsection shall be
19 mailed at least 10 days prior to the date of sale. A lienholder shall be permitted to purchase the
20 motor vehicle at any such sale by bidding in the amount of its lien, if that should be the highest bid,
21 without being required to tender any additional funds, other than the towing and storage fees. The
22 county board of education, or its agent, shall not sell, give, or otherwise transfer possession of the
23 forfeited motor vehicle to the defendant, the motor vehicle owner who owned the motor vehicle
24 immediately prior to forfeiture, or any person acting on the defendant's or motor vehicle owner's
25 behalf.

26 (a1) Sale of Vehicle in Possession of the State Surplus Property Agency. – A motor vehicle
27 in the possession or constructive possession of the State Surplus Property Agency ordered forfeited
28 and sold or a seized motor vehicle authorized to be sold pursuant to G.S. 20-28.3(i) shall be sold at
29 a public sale conducted in accordance with the provisions of Article 3A of Chapter 143 of the
30 General Statutes, subject to the notice requirements of this subsection, and shall be conducted by the
31 State Surplus Property Agency or a person acting on its behalf. Notice of sale, including the date,
32 time, location, and manner of sale, shall be given by first-class mail to all motor vehicle owners of
33 the vehicle to be sold at the address shown by the records of the Division. Written notice of sale
34 shall also be given to all lienholders on file with the Division. Notice of sale shall be given to the
35 Division in accordance with the procedures established by the State Surplus Property Agency.
36 Notices required to be given under this subsection shall be mailed at least 10 days prior to the date
37 of sale. A lienholder shall be permitted to purchase the motor vehicle at any such sale by bidding in
38 the amount of its lien, if that should be the highest bid, without being required to tender any
39 additional funds, other than the towing and storage fees. The State Surplus Property Agency, or its
40 agent, shall not sell, give, or otherwise transfer possession of the forfeited motor vehicle to the
41 defendant, the motor vehicle owner who owned the motor vehicle immediately prior to forfeiture, or
42 any person acting on the defendant's or motor vehicle owner's behalf.

43 (b) Proceeds of Sale. – Proceeds of any sale conducted under this section,
44 G.S. 20-28.2(f)(5), or G.S. 20-28.3(e3)(3), shall first be applied to ~~the cost of sale~~ all costs incurred
45 by the State Surplus Property Agency or county board of education and then to satisfy towing and
46 storage costs. The balance of the proceeds of sale, if any, shall be used to satisfy any other existing
47 liens of record that were properly recorded prior to the date of initial seizure of the vehicle. Any
48 remaining balance shall be paid to the county school fund in the county in which the motor vehicle
49 was ordered forfeited. If there is more than one school board in the county, then the net proceeds of
50 sale, after reimbursement to the county board of education of reasonable administrative costs
51 incurred in connection with the forfeiture and sale of the motor vehicle, shall be distributed in the

1 same manner as fines and other forfeitures. The sale of a motor vehicle pursuant to this section shall
2 be deemed to extinguish all existing liens on the motor vehicle and the motor vehicle shall be
3 transferred free and clear of any liens.

4"

5 **SECTION 27.3.(d)** G.S. 20-28.9 reads as rewritten:

6 "**§ 20-28.9. Authority for the ~~Department of Public Instruction~~ State Surplus Property**
7 **Agency to administer a statewide or regional towing, storage, and sales program**
8 **for vehicles forfeited.**

9 (a) The ~~Department of Public Instruction~~ State Surplus Property Agency is authorized to
10 enter into a contract for a statewide service or contracts for regional services to tow, store, process,
11 maintain, and sell motor vehicles seized pursuant to G.S. 20-28.3. All motor vehicles seized under
12 G.S. 20-28.3 shall be subject to contracts entered into pursuant to this section. Contracts shall be let
13 by the ~~Department of Public Instruction~~ State Surplus Property Agency in accordance with the
14 provisions of Article 3 of Chapter 143 of the General Statutes. Nothing in this section shall be
15 construed to prohibit the State Surplus Property Agency from entering into contracts pursuant to
16 this section for some regions of the State while performing the work of towing, storing, processing,
17 maintaining, and selling motor vehicles seized pursuant to G.S. 20-28.3 itself in other regions of the
18 State. All contracts shall ensure the safety of the motor vehicles while held and any funds arising
19 from the sale of any seized motor vehicle. The contract shall require the contractor to maintain and
20 make available to the agency a computerized up-to-date inventory of all motor vehicles held under
21 the contract, together with an accounting of all accrued charges, the status of the vehicle, and the
22 county school fund to which the proceeds of sale are to be paid. The contract shall provide that the
23 contractor shall pay the towing and storage charges owed on a seized vehicle to a commercial
24 towing company at the time the seized vehicle is obtained from the commercial towing company,
25 with the contractor being reimbursed this expense when the vehicle is released or sold. The
26 ~~Department~~ State Surplus Property Agency shall not enter into any contract under this section under
27 which the State will be obligated to pay a deficiency arising from the sale of any forfeited motor
28 vehicle.

29 (b) The ~~Department~~, State Surplus Property Agency, through its contractor or contractors
30 designated in accordance with subsection (a) of this section, may charge a reasonable fee for storage
31 not to exceed ten dollars (\$10.00) per calendar day for the storage of seized vehicles pursuant to
32 G.S. 20-28.3.

33 (c) ~~In order to help defray the administrative costs associated with the administration of this~~
34 ~~section, the Department shall collect a ten dollar (\$10.00) administrative fee from a person to whom~~
35 ~~a seized vehicle is released at the time the motor vehicle is released and shall collect a ten dollar~~
36 ~~(\$10.00) administrative fee out of the proceeds of the sale of any forfeited motor vehicle. The funds~~
37 ~~collected under this subsection shall be paid to the General Fund."~~

38 **SECTION 27.3.(e)** G.S. 143-64.02 is amended by adding two new subdivisions to read:
39 "**§ 143-64.02. Definitions.**

40 As used in Part 1 of this Article, except where the context clearly requires otherwise:

- 41 (1) "Agency" means an existing department, institution, commission, committee,
42 board, division, or bureau of the State.
- 43 (2) "Nonprofit tax exempt organizations" means those nonprofit tax exempt medical
44 institutions, hospitals, clinics, health centers, school systems, schools, colleges,
45 universities, schools for the mentally retarded, schools for the physically
46 handicapped, radio and television stations licensed by the Federal
47 Communications Commission as educational radio or educational television
48 stations, public libraries, and civil defense organizations, that have been certified
49 by the Internal Revenue Service as tax-exempt nonprofit organizations under
50 section 501(c)(3) of the United States Internal Revenue Code of 1954.

- (3) "Recyclable material" means a recyclable material, as defined in G.S. 130A-290, that the Secretary of Administration determines, consistent with G.S. 130A-309.14, to be a recyclable material.
- (4) "State owned" means supplies, materials, and equipment in the possession of the State of North Carolina and purchased with State funds, personal property donated to the State, or personal property purchased with other funds that give ownership to the State.
- (5) "Surplus property" means personal property that is no longer needed by a State agency."

SECTION 27.3.(f) G.S. 143-64.03 reads as rewritten:

"§ 143-64.03. Powers and duties of the State agency for surplus property.

(a) The State Surplus Property Agency is authorized and directed to:

- (1) Sell all State owned supplies, materials, and equipment that are surplus, obsolete, or ~~unused~~; unused and sell all seized vehicles and other conveyances that the State Surplus Property Agency is authorized to sell;
- (2) Warehouse such property; and
- (3) Distribute such property to tax-supported or nonprofit tax-exempt organizations.

(b) The State Surplus Property Agency is authorized and empowered to act as a clearinghouse of information for agencies and private nonprofit tax-exempt organizations, to locate property available for acquisition from State agencies, to ascertain the terms and conditions under which the property may be obtained, to receive requests from agencies and private nonprofit tax-exempt organizations, and transmit all available information about the property, and to aid and assist the agencies and private nonprofit tax-exempt organizations in transactions for the acquisition of State surplus property.

(c) The State agency for surplus property, in the administration of Part 1 of this Article, shall cooperate to the fullest extent consistent with the provisions of Part 1 of this Article, with the departments or agencies of the State.

(d) The State agency for surplus property may sell or otherwise dispose of surplus property, including motor vehicles, through an electronic auction service."

SECTION 27.3.(g) G.S. 143-64.05(a) reads as rewritten:

"§ 143-64.05. Service charge; receipts.

(a) The State agency for surplus property may assess and collect a service charge (i) for the acquisition, receipt, warehousing, distribution, or transfer of any State surplus property and property; (ii) for the transfer or sale of recyclable material; and (iii) for the towing, storing, processing, maintaining, and selling of motor vehicles seized pursuant to G.S. 20-28.3. The service charge authorized by this subsection does not apply to the transfer or sale of timber on land owned by the Wildlife Resources Commission or the Department of Agriculture and Consumer Services."

House and Senate Differ

House Version

DOROTHEA DIX MEMORIAL

SECTION 27.4. The Department of Administration shall appoint a task force to acquire historical documents, photographs, and memorabilia relating to Dorothea Lynde Dix, mental health efforts in the State, and the Dorothea Dix Hospital. The Department shall propose options to preserve a building or provide a space on the Dorothea Dix campus for the purpose of permanently exhibiting the acquired historical materials for the purposes of (i) memorializing and honoring the unique history of Dorothea Dix Hospital and the story of Dorothea Dix and (ii) educating the public about her advocacy for and innovations in the proper treatment of the mentally ill. The Department

1 shall submit a report of its proposed options to the Joint Legislative Oversight Committee on Health
2 and Human Services by April 1, 2016.

4 **Senate Version**

5 **DOROTHEA DIX MEMORIAL**

6 **SECTION 27.4.** The Department of Administration, in consultation with the
7 Department of Cultural Resources, shall appoint a task force to acquire historical documents,
8 photographs, and memorabilia relating to Dorothea Lynde Dix, mental health efforts in the State,
9 and the Dorothea Dix Hospital. The Department shall propose options to preserve a building or
10 provide a space on the Dorothea Dix campus for the purpose of permanently exhibiting the acquired
11 historical materials for the purposes of (i) memorializing and honoring the unique history of
12 Dorothea Dix Hospital and the story of Dorothea Dix and (ii) educating the public about her
13 advocacy for and innovations in the proper treatment of the mentally ill. The Department shall
14 submit a report of its proposed options to the Joint Legislative Oversight Committee on Health and
15 Human Services by April 1, 2016.

18 **House Only**

19 **ADDITIONAL OPERATING FUNDS AND POSITIONS FOR THE DEPARTMENT OF**
20 **MILITARY AND VETERANS AFFAIRS**

21 **SECTION 27.5.(a)** The appropriation to the Department of Administration for utilities
22 is hereby reduced by two hundred fifty thousand dollars (\$250,000) in nonrecurring funds for the
23 2015-2016 fiscal year and by two hundred fifty thousand dollars (\$250,000) in nonrecurring funds
24 for the 2016-2017 fiscal year.

25 **SECTION 27.5.(b)** Of the funds appropriated in this act, the sum of two hundred fifty
26 thousand dollars (\$250,000) in nonrecurring funds for the 2015-2016 fiscal year and the sum of two
27 hundred fifty thousand dollars (\$250,000) in nonrecurring funds for the 2016-2017 fiscal year shall
28 be used to support the operations of the Department of Military and Veterans Affairs established in
29 Section 24.1 of this act and to establish and support five new time-limited positions at the State
30 Veterans Cemetery in Goldsboro. The General Assembly intends to establish these positions
31 permanently in future fiscal years and to support them with receipts.

34 **Senate Only**

35 **VEHICLES ASSIGNED TO SECTION OF COMMUNITY CORRECTION/EXEMPT**
36 **FROM MINIMUM MILEAGE REQUIREMENT**

37 **SECTION 27.6.(a)** Exemption. – For the 2015-2017 fiscal biennium and
38 notwithstanding any law, rule, or regulation to the contrary, motor vehicles assigned from the
39 central motor fleet established under G.S. 143-341 to the Section of Community Corrections of the
40 Division of Adult Correction of the Department of Public Safety are exempt from any requirement
41 that the motor vehicle be driven a minimum number of miles per month or quarter.

42 **SECTION 27.6.(b)** Report on Exemption. – The Department of Administration shall
43 provide an interim report to the Joint Legislative Oversight Committee on General Government and
44 the Joint Legislative Oversight Committee on Justice and Public Safety by March 1, 2016, and a
45 final report to the Joint Legislative Oversight Committee on General Government and the Joint
46 Legislative Oversight Committee on Justice and Public Safety by January 1, 2017. Each report shall
47 include all of the following information:

- 48 (1) The number of motor vehicles assigned to the Section of Community Corrections
49 of the Division of Adult Correction of the Department of Public Safety.
- 50 (2) The average miles per month the assigned motor vehicles were driven.

(3) The average costs per month for maintenance and motor fuel for the assigned motor vehicles.

(4) The number of months in which an assigned motor vehicle was not driven at all.

SECTION 27.6.(c) Report on Vehicles Managed. – Beginning on October 1, 2015, and quarterly thereafter, the Department of Administration shall provide a report to the Joint Legislative Oversight Committee on General Government and the Joint Legislative Oversight Committee on Justice and Public Safety on the status of all motor vehicles managed by the Department of Administration for the Department of Public Safety. The report shall include all of the following information:

(1) The number of motor vehicles managed by the Department of Administration for the Department of Public Safety.

(2) The condition of each motor vehicle, including the mileage on each motor vehicle.

(3) The average amount of time taken to repair or replace a motor vehicle.

(4) The number and condition of any backup motor vehicles managed by the Department of Administration and available for use by the Department of Public Safety, including the location and condition of each motor vehicle.

Senate Only

ELIMINATE NC HUMAN RELATIONS COMMISSION

SECTION 27.7.(a) The following are repealed:

(1) Part 9 of Article 9 of Chapter 143B of the General Statutes.

(2) G.S. 99D-1(b1), 143-157.1(d)(14), and 143-422.3.

(3) Chapter 41A of the General Statutes.

SECTION 27.7.(b) Notwithstanding any other provision of law, the Department of Justice shall assume and resolve all pending complaints filed with the North Carolina Human Relations Commission and shall be allowed to substitute for the North Carolina Human Relations Commission in any pending proceeding in the courts of this State.

SECTION 27.7.(c) This section does not affect the rights or liabilities of the State, a complainant, or another party arising under a statute repealed by this section before the effective date of its amendment or repeal, and the statutes that would be applicable but for this act remain applicable to those parties.

SECTION 27.7.(d) The North Carolina Human Relations Commission shall refer any complaints received after the enactment of this act to the Office of Fair Housing and Equal Opportunity with the United States Department of Housing and Urban Development if the Commission determines the complaint is unlikely to be resolved prior to July 1, 2016.

SECTION 27.7.(e) Subsections (d) and (e) of this section are effective when this act becomes law. The remainder of this section becomes effective July 1, 2016.

Senate Only

ELIMINATE LICENSE TO GIVE TRUST FUND COMMISSION

SECTION 27.8.(a) Subsection (c) of Section 5 of S.L. 2004-189, as amended by subsection (q) of Section 44.1 of S.L. 2005-276, reads as rewritten:

"SECTION 5.(c) The Division of Motor Vehicles shall retain ~~a portion of five cents (\$0.05)~~ collected for the issuance of each drivers license and duplicate license to offset the actual cost of developing and maintaining the online Organ Donor Internet site established pursuant to Section 1 of this act. ~~The remainder of the five cents (\$0.05) shall be credited to the License to Give Trust~~

1 Fund established under G.S. 20-7.4 and shall be used for the purposes authorized under G.S. 20-7.4
2 and G.S. 20-7.5."

3 **SECTION 27.8.(b)** G.S. 20-7.4 through G.S. 20-7.6 are repealed.

4 **SECTION 27.8.(c)** Prior to the effective date of subsection (b) of this section, the
5 License to Give Trust Fund Commission shall expend all funds in the License to Give Trust Fund
6 for the purposes set forth in G.S. 20-7.4. Any unencumbered State funds remaining in the License to
7 Give Trust Fund after the effective date of subsection (b) of this section shall be transferred to the
8 Highway Fund.

9 **SECTION 27.8.(d)** Subsections (a), (c), and (d) of this section are effective when this
10 act becomes law. The remainder of this section becomes effective October 1, 2015.

13 Senate Only

14 OVERPAYMENTS AUDIT

15 **SECTION 27A.1.(a)** During the 2015-2017 fiscal biennium, receipts generated by the
16 collection of inadvertent overpayments by State agencies to vendors as a result of pricing errors,
17 neglected rebates and discounts, miscalculated freight charges, unclaimed refunds, erroneously paid
18 excise taxes, and related errors are to be deposited in Special Reserve Account 24172 as required by
19 G.S. 147-86.22(c).

20 **SECTION 27A.1.(b)** For each year of the 2015-2017 fiscal biennium, five hundred
21 thousand dollars (\$500,000) of the funds in the Special Reserve Account 24172 shall be used by the
22 Office of the State Controller for data processing, debt collection, or e-commerce costs and are
23 hereby appropriated for that purpose.

24 **SECTION 27A.1.(c)** All funds available in Special Reserve Account 24172 on June 30
25 of each year of the 2015-2017 fiscal biennium shall revert to the General Fund on that date.

26 **SECTION 27A.1.(d)** The State Controller shall report quarterly to the Joint Legislative
27 Commission on Governmental Operations and the Fiscal Research Division on the revenue
28 deposited into Special Reserve Account 24172 and the disbursement of that revenue.

31 House and Senate Differ

33 House Version

34 MODIFY COLLECTION ASSISTANCE FEE RULES

35 **SECTION 28.2.** G.S. 105-243.1(e) reads as rewritten:

36 "(e) Use. – The fee is a receipt of the Department and must be applied to the costs of
37 collecting overdue tax debts. The proceeds of the fee must be credited to a special account within
38 the Department and may be expended only as provided in this subsection. The proceeds of the fee
39 may not be used for any purpose that is not directly and primarily related to collecting overdue tax
40 debts. The Department may apply the proceeds of the fee for the purposes listed in this subsection.
41 The remaining proceeds of the fee may be spent only pursuant to appropriation by the General
42 Assembly. The fee proceeds do not revert but remain in the special account until spent for the costs
43 of collecting overdue tax debts. The Department and the Office of State Budget and Management
44 must account for all expenditures using accounting procedures that clearly distinguish costs
45 allocable to collecting overdue tax debts from costs allocable to other purposes and must
46 demonstrate that none of the fee proceeds are used for any purpose other than collecting overdue tax
47 debts.

48 The Department may apply the fee proceeds for the following purposes:

49 (1) To pay (i) contractors for collecting overdue tax debts under subsection (b) of
50 this section and (ii) auditors responsible for identifying overdue tax debts.

...

(4) To pay for postage or other delivery charges for correspondence directly and primarily relating to collecting overdue tax debts, not to exceed ~~five hundred thousand dollars (\$500,000)~~ seven hundred fifty thousand dollars (\$750,000) a year.

...

(7) To pay the direct and indirect expenses of information technology upgrades to the Department of Revenue computer systems that are intended to do all of the following:

a. Improve system-wide security to protect the interests of all taxpayers and the information technology infrastructure of the Department.

b. Allow the Department to achieve ongoing compliance with IRS requirements for the safeguarding of Federal Tax Information entrusted to the Department.

c. Upgrade Department of Revenue capabilities to allow for electronic filing of returns by taxpayers and the electronic issuance of refunds by the Department for all remaining tax schedules.

d. Accomplish other mission-critical IT tasks of the Department as approved by the Office of State Budget and Management in consultation with the State CIO."

Senate Version

MODIFY COLLECTION ASSISTANCE FEE RULES

SECTION 28.2. G.S. 105-243.1(e) reads as rewritten:

"(e) Use. – The fee is a receipt of the Department and must be applied to the costs of collecting overdue tax debts. The proceeds of the fee must be credited to a special account within the Department and may be expended only as provided in this subsection. The proceeds of the fee may not be used for any purpose that is not directly and primarily related to collecting overdue tax debts. The Department may apply the proceeds of the fee for the purposes listed in this subsection. The remaining proceeds of the fee may be spent only pursuant to appropriation by the General Assembly. The fee proceeds do not revert but remain in the special account until spent for the costs of collecting overdue tax debts. The Department and the Office of State Budget and Management must account for all expenditures using accounting procedures that clearly distinguish costs allocable to collecting overdue tax debts from costs allocable to other purposes and must demonstrate that none of the fee proceeds are used for any purpose other than collecting overdue tax debts.

The Department may apply the fee proceeds for the following purposes:

...

(4) To pay for postage or other delivery charges for correspondence directly and primarily relating to collecting overdue tax debts, not to exceed ~~five hundred thousand dollars (\$500,000)~~ one million dollars (\$1,000,000) a year.

...."

House and Senate Differ

House Version

STATE AGENCY/ENHANCED DEBT COLLECTION

SECTION 28.3. Article 1 of Chapter 105A of the General Statutes reads as rewritten:

"Chapter 105A.

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"In General.

The purpose of this Chapter is to establish as policy that all claimant agencies and the Department of Revenue shall cooperate in identifying debtors who owe money to the State or to a local government through their various agencies and who qualify for refunds from the Department of Revenue. It is also the intent of this Chapter that procedures be established for setting off against any refund the sum of any debt owed to the State or to a local government. Furthermore, it is the legislative intent that this Chapter be liberally construed so as to effectuate these purposes as far as legally and practically possible.

The following definitions apply in this Chapter:

- Page 61

- 1 g. A sum owed to the United States government or its federal agencies.
- 2 (3) Debtor. – A person who owes a debt.
- 3 (4) Department. – The Department of Revenue.
- 4 (5) Federal official. – A unit or official of the federal government charged with the
- 5 collection of nontax debts payable to the federal government pursuant to 31
- 6 U.S.C. § 3716.
- 7 (6) Local agency. – Any of the following:
- 8 a. A county, to the extent it is not considered a State agency.
- 9 b. A municipality.
- 10 c. A water and sewer authority created under Article 1 of Chapter 162A of
- 11 the General Statutes.
- 12 d. A regional joint agency created by interlocal agreement under Article 20
- 13 of Chapter 160A of the General Statutes between two or more counties,
- 14 cities, or both.
- 15 e. A public health authority created under Part 1B of Article 2 of Chapter
- 16 130A of the General Statutes or other authorizing legislation.
- 17 f. A metropolitan sewerage district created under Article 5 of Chapter 162A
- 18 of the General Statutes.
- 19 g. A sanitary district created under Part 2 of Article 2 of Chapter 130A of
- 20 the General Statutes.
- 21 h. A housing authority created under Chapter 157 of the General Statutes,
- 22 provided that the debt owed to a housing authority has been reduced to a
- 23 final judgment in favor of the housing authority.
- 24 i. A regional solid waste management authority created under Article 22 of
- 25 Chapter 153A of the General Statutes.
- 26 (7) Net proceeds collected. – Gross proceeds collected through setoff against a
- 27 debtor's refund or nontax payment minus the collection assistance fees provided
- 28 in G.S. 105A-13.
- 29 (7a) Nontax payment. – A payment, including an expense reimbursement, made by
- 30 the State to a person. The term does not include a person's salary, wages, or
- 31 pension or a refund.
- 32 (7b) Person. – Defined in G.S. 105-228.90.
- 33 (8) Refund. – A debtor's North Carolina tax refund.
- 34 (9) State agency. – Any of the following:
- 35 a. A unit of the executive, legislative, or judicial branch of State
- 36 government.
- 37 b. A local agency, to the extent it administers a program supervised by the
- 38 Department of Health and Human Services or it operates a Child Support
- 39 Enforcement Program, enabled by Chapter 110, Article 9, and Title IV,
- 40 Part D of the Social Security Act.
- 41 c. A community college.

42 **"§ 105A-3. Remedy additional; mandatory State usage; optional local usage; obtaining**

43 **identifying information; registration.**

44 (a) Remedy Additional. – The collection remedy under this Chapter is in addition to and not

45 in substitution for any other remedy available by law.

46 (b) Mandatory State Usage. – A State agency must submit a debt owed to it for collection

47 under this Chapter unless the State Controller has waived this requirement or the State agency has

48 determined that the validity of the debt is legitimately in dispute, an alternative means of collection

49 is pending and believed to be adequate, or such a collection attempt would result in a loss of federal

50 funds. The State Controller may waive the requirement for a State agency, other than the

51 Department of Health and Human Services or a county acting on behalf of that Department, to

1 submit a debt owed to it for collection under this Chapter if the State Controller finds that collection
2 by this means would not be practical or cost effective. A waiver may apply to all debts owed a State
3 agency or a type of debt owed a State agency.

4 (b1) Optional Local Usage. – A local agency may submit a debt owed to it for collection
5 under this Chapter. A local agency that decides to submit a debt owed to it for collection under this
6 Chapter must establish the debt by following the procedure set in G.S. 105A-5 and must submit the
7 debt through one of the following:

8 (1) A clearinghouse that is established pursuant to an interlocal agreement adopted
9 under Article 20 of Chapter 160A of the General Statutes and has agreed to
10 submit debts on behalf of any requesting local agency.

11 (2) The North Carolina League of Municipalities.

12 (3) The North Carolina Association of County Commissioners.

13 (c) Identifying Information. – All claimant agencies shall whenever possible obtain the full
14 name, social security number or federal identification number, address, and any other identifying
15 information required by the Department from any person for whom the agencies provide any
16 service or transact any business and who the claimant agencies can foresee may become a debtor
17 under this Chapter.

18 (d) Registration and Reports. – A State agency must register with the Department and with
19 the State Controller. Every State agency must report annually to the State Controller the amount of
20 debts owed to the agency for which the agency did not submit a claim for setoff and the reason for
21 not submitting the claim.

22 A clearinghouse or an organization that submits debts on behalf of a local agency must register
23 with the Department. Once a clearinghouse registers with the Department under this subsection, no
24 other clearinghouse may register to submit debts for collection under this Chapter.

25 **"§ 105A-4. Minimum debt and ~~refund~~-refund or nontax payment.**

26 This Chapter applies only to a debt that is at least fifty dollars (\$50.00) and to a refund or nontax
27 payment that is at least this same amount.

28 **"§ 105A-5. Local agency notice, hearing, and decision.**

29 (a) Prerequisite. – A local agency may not submit a debt for collection under this Chapter
30 until it has given the notice required by this section and the claim has been finally determined as
31 provided in this section.

32 (b) Notice. – A local agency must send written notice to a debtor that the agency intends to
33 submit the debt owed by the debtor for collection by setoff. The notice must explain the basis for
34 the agency's claim to the debt, that the agency intends to apply the debtor's refund or nontax
35 payment against the debt, and that a collection assistance fee ~~of fifteen dollars (\$15.00)~~ provided in
36 G.S. 105A-13 will be added to the debt if it is submitted for setoff. The notice must also inform the
37 debtor that the debtor has the right to contest the matter by filing a request for a hearing with the
38 local agency, must state the time limits and procedure for requesting the hearing, and must state that
39 failure to request a hearing within the required time will result in setoff of the debt.

40 (c) Administrative Review. – A debtor who decides to contest a proposed setoff must file a
41 written request for a hearing with the local agency within 30 days after the date the local agency
42 mails a notice of the proposed action to the debtor. A request for a hearing is considered to be filed
43 when it is delivered for mailing with postage prepaid and properly addressed. The governing body
44 of the local agency or a person designated by the governing body must hold the hearing.

45 If the debtor disagrees with the decision of the governing body or the person designated by the
46 governing body, the debtor may file a petition for a contested case under Article 3 of Chapter 150B
47 of the General Statutes. The petition must be filed within 30 days after the debtor receives a copy of
48 the local decision. Notwithstanding the provisions of G.S. 105-241.21, a local agency is considered
49 an agency for purposes of contested cases and appeals under this Chapter.

50 In a hearing under this section, an issue that has previously been litigated in a court proceeding
51 cannot be considered.

(d) Decision. – A decision made after a hearing under this section must determine whether a debt is owed to the local agency and the amount of the debt.

(e) Return of Amount Set Off. – If a local agency submits a debt for collection under this Chapter without sending the notice required by subsection (b) of this section, the agency must send the taxpayer the entire amount set off plus the collection assistance fees provided in G.S. 105A-13. Similarly, if a local agency submits a debt for collection under this Chapter after sending the required notice but before final determination of the debt and a decision finds that the local agency is not entitled to any part of the amount set off, the agency must send the taxpayer the entire amount set off plus the collection assistance fees provided in G.S. 105A-13. That portion of the amount returned that reflects the collection assistance fees must be paid from the local agency's funds.

If a local agency submits a debt for collection under this Chapter after sending the required notice and the net proceeds collected that are credited to the local agency for the debt exceed the amount of the debt, the local agency must send the balance to the debtor. No part of the collection assistance fees provided in G.S. 105A-13 may be returned when a notice was sent and a debt is owed but the debt is less than the amount set off.

Interest accrues on the amount of a refund returned to a taxpayer under this subsection in accordance with G.S. 105-241.21. A local agency that returns a refund to a taxpayer under this subsection must pay from the local agency's funds any interest that has accrued since the fifth day after the Department mailed the notice of setoff to the taxpayer.

"§ 105A-6. Procedure Department to follow in making setoff.

(a) Notice to Department. – A claimant agency seeking to attempt collection of a debt through setoff must notify the Department in writing and supply information necessary to identify the debtor whose refund or nontax payment is sought to be set off. The claimant agency may include with the notification the date, if any, that the debt is expected to expire. The agency must notify the Department in writing when a debt has been paid or is no longer owed the agency.

(b) Setoff by Department. – The Department, upon receipt of notification, must determine each year whether the debtor to the claimant agency is entitled to a refund ~~of or nontax payment and whether the amount is at least fifty dollars (\$50.00) from the Department. (\$50.00).~~ Upon determination by the Department that a debtor specified by a claimant agency qualifies for such a ~~refund,~~ refund or nontax payment, the Department must set off the debt against the refund or nontax payment to which the debtor would otherwise be entitled and must refund any remaining balance to the debtor. The Department must mail the debtor written notice that the setoff has occurred and must credit the net proceeds collected to the claimant agency. If the claimant agency is a State agency, that agency must credit the amount received to a nonreverting trust account and must follow the procedure set in G.S. 105A-8.

"§ 105A-6.1. State Reciprocal Offset Program.

(a) Agreement. – The Department is authorized to enter into an agreement with the Secretary of the Treasury to participate in the State Reciprocal Offset Program pursuant to 31 U.S.C. § 3716 for the collection of any debts owed to the State or to State agencies from federal payments to vendors, contractors, and taxpayers. The agreement may provide for the United States to submit nontax debts owed to federal agencies for offset against State payments otherwise due and owing to taxpayers, vendors, and contractors providing goods or services to the State, its departments, agencies, or institutions.

(b) Federal Certification. – Pursuant to the agreement authorized in subsection (a) of this section, a federal official may certify to the Department the existence of a person's delinquent, nontax debt owed by the person to the federal government. To accept the certification provided by the federal official, the certification must include the name of the person, the person's Social Security number or federal tax identification number, and the amount of the person's nontax debt and may include any other information pursuant to the agreement authorized herein.

(c) Offset. – Upon receiving a federal certification complying with subsection (b) of this section and a request by the federal official that the Department withhold a refund or nontax

1 payment, the following provisions, as required or permitted by State law, federal law, or the offset
2 agreement, apply:

3 (1) The Department may determine if a person for whom the federal certification is
4 received is due a refund or nontax payment.

5 (2) If the person for whom the federal certification is received is due a refund or
6 nontax payment, the Department shall (i) withhold the refund or nontax payment
7 due, (ii) notify the person of the amount withheld in the manner required by the
8 offset agreement, and (iii) remit to the federal official the lesser of the entire
9 amount of the refund or nontax payment or the amount certified.

10 (3) If the amount certified is less than the refund or nontax payment, the Department
11 shall pay the excess to the person less the collection assistance fee provided in
12 G.S. 105A-13.

13 (d) State Certification. – As permitted by State law, federal law, and the offset agreement,
14 the Department may certify to a federal official a person's delinquent debt owed to the State by
15 providing the federal official the name of the person, the person's Social Security number or tax
16 identification number, the amount of the debt due the State, and any other information required by
17 the offset agreement. The Department may request that the federal official withhold any federal
18 vendor or other federal payment pursuant to the offset agreement to which the person is entitled.

19 (e) Proceeds Retention. – The retention of a portion of the proceeds of any federal
20 administrative setoff pursuant to 31 C.F.R. § 285.6 does not affect the provisions of this section.

21 ...

22 **"§ 105A-8. State agency notice, hearing, decision, and refund of setoff.**

23 (a) Notice. – Within 10 days after a State agency receives a refund or nontax payment of a
24 debtor, the agency must send the debtor written notice that the agency has received the debtor's
25 refund, refund or nontax payment. The notice must explain the debt that is the basis for the agency's
26 claim to the debtor's refund or nontax payment and that the agency intends to apply the refund or
27 nontax payment against the debt. The notice must also inform the debtor that the debtor has the
28 right to contest the matter by filing a request for a hearing, must state the time limits and procedure
29 for requesting the hearing, and must state that failure to request a hearing within the required time
30 will result in setoff of the debt. A State agency that does not send a debtor a notice within the time
31 required by this subsection must refund the amount set off plus the collection assistance fee, in
32 accordance with subsection (d) of this section.

33 (b) Hearing. – A hearing on a contested claim of a State agency, except a constituent
34 institution of The University of North Carolina or the Division of Employment Security, must be
35 conducted in accordance with Article 3 of Chapter 150B of the General Statutes. A hearing on a
36 contested claim of a constituent institution of The University of North Carolina must be conducted
37 in accordance with administrative procedures approved by the Attorney General. A hearing on a
38 contested claim of the Division of Employment Security must be conducted in accordance with
39 rules adopted by that Division. A request for a hearing on a contested claim of any State agency
40 must be filed within 30 days after the State agency mails the debtor notice of the proposed setoff. A
41 request for a hearing is considered to be filed when it is delivered for mailing with postage prepaid
42 and properly addressed. In a hearing under this section, an issue that has previously been litigated in
43 a court proceeding cannot be considered.

44 (c) Decision. – A decision made after a hearing under this section must determine whether a
45 debt is owed to the State agency and the amount of the debt.

46 (d) Return of Amount Set Off. – If a State agency fails to send the notice required by
47 subsection (a) of this section within the required time or a decision finds that a State agency is not
48 entitled to any part of an amount set off, the agency must send the taxpayer the entire amount set off
49 plus the collection assistance fee retained by the Department. That portion of the amount returned
50 that reflects the collection assistance fee must be paid from the State agency's funds.

1 If a debtor owes a debt to a State agency and the net proceeds credited to the State agency for
2 the debt exceed the amount of the debt, the State agency must send the balance to the debtor. No
3 part of the collection assistance fee retained by the Department may be returned when a debt is
4 owed but it is less than the amount set off.

5 Interest accrues on the amount of a refund returned to a taxpayer under this subsection in
6 accordance with G.S. 105-241.21. A State agency that returns a refund to a taxpayer under this
7 subsection must pay from the State agency's funds any interest that has accrued since the fifth day
8 after the Department mailed the notice of setoff to the taxpayer.

9 **"§ 105A-9. Appeals from hearings.**

10 Appeals from hearings allowed under this Chapter, other than those conducted by the Division
11 of Employment Security, shall be in accordance with the provisions of Chapter 150B of the General
12 Statutes, the Administrative Procedure Act, except that the place of initial judicial review shall be
13 the superior court for the county in which the debtor resides. Appeals from hearings allowed under
14 this Chapter that are conducted by the Division of Employment Security shall be in accordance with
15 the provisions of Chapter 96 of the General Statutes.

16 ...

17 **"§ 105A-12. Priorities in claims to setoff.**

18 The Department has priority over all other claimant agencies for collection by setoff whenever it
19 is a competing agency for a ~~refund~~refund or nontax payment. State agencies have priority over
20 federal or local agencies for collection by setoff. When there are multiple claims by State agencies
21 other than the Department, the claims have priority based on the date each agency registered with
22 the Department under G.S. 105A-3. When there are multiple claims by two or more organizations
23 submitting debts on behalf of federal or local agencies, the claims have priority based on the date
24 each organization registered with the Department under G.S. 105A-3. When there are multiple
25 claims among federal or local agencies whose debts are submitted by the same organization, the
26 claims have priority based on the date each federal or local agency requested the organization to
27 submit debts on its behalf.

28 **"§ 105A-13. Collection assistance fees.**

29 (a) State Setoff. – ~~To~~Except as provided in subsection (b1) of this section, to recover the
30 costs incurred by the Department in collecting debts under this Chapter, a collection assistance fee
31 of five dollars (\$5.00) is imposed on each debt collected through setoff. The Department must
32 collect this fee as part of the debt and retain it. The collection assistance fee shall not be added to
33 child support debts or collected as part of child support debts. Instead, the Department shall retain
34 from collections under Division II of Article 4 of Chapter 105 of the General Statutes the cost of
35 collecting child support debts under this Chapter.

36 (b) Repealed by Session Laws 2001-380, s. 3, effective November 1, 2001.

37 (b1) Federal Debts. – To recover the costs incurred by the Department in collecting debts on
38 behalf of a federal agency under this Chapter, a collection assistance fee equal to the fee charged by
39 the federal government is imposed on each debt collected through setoff. The Department must
40 collect this fee as part of the debt and retain it.

41 (c) Local Debts. – To recover the costs incurred by local agencies in submitting debts for
42 collection under this Chapter, a local collection assistance fee of fifteen dollars (\$15.00) is imposed
43 on each local agency debt submitted under G.S. 105A-3(b1) and collected through setoff. The
44 Department must collect this fee as part of the debt and remit it to the clearinghouse that submitted
45 the debt. The local collection assistance fee does not apply to child support debts.

46 (d) Priority. – If the Department is able to collect only part of a debt through setoff, the
47 collection assistance fee provided in subsection (a) of this section has priority over the local
48 collection assistance fee and over the remainder of the debt. The local collection assistance fee has
49 priority over the remainder of the debt.

50 **"§ 105A-14. Accounting to the claimant agency; credit to debtor's obligation.**

(a) Simultaneously with the transmittal of the net proceeds collected to a claimant agency, the Department must provide the agency with an accounting of the setoffs for which payment is being made. The accounting must whenever possible include the full names of the debtors, the debtors' social security numbers or federal identification numbers, the gross proceeds collected per setoff, the net proceeds collected per setoff, and the collection assistance fee added to the debt and collected per setoff.

(b) Upon receipt by a claimant agency of net proceeds collected on the claimant agency's behalf by the Department, a final determination of the claim if it is a State agency claim, and an accounting of the proceeds as specified under this section, the claimant agency must credit the debtor's obligation with the net proceeds collected.

"§ 105A-15. Confidentiality exemption; nondisclosure.

(a) Notwithstanding G.S. 105-259 or any other provision of law prohibiting disclosure by the Department of the contents of taxpayer records or information and notwithstanding any confidentiality statute of any claimant agency, the exchange of any information among the Department, the claimant agency, the organization submitting debts on behalf of a local agency, and the debtor necessary to implement this Chapter is lawful.

(b) The information a claimant agency or an organization submitting debts on behalf of a local agency obtains from the Department in accordance with the exemption allowed by subsection (a) may be used by the agency or organization only in the pursuit of its debt collection duties and practices and may not be disclosed except as provided in G.S. 105-259, 153A-148.1, or 160A-208.1.

"§ 105A-16. Rules.

The Secretary of Revenue may adopt rules to implement this Chapter. The State Controller may adopt rules to implement this Chapter."

Senate Version

STATE AGENCY/ENHANCED DEBT COLLECTION

SECTION 28.3. Article 1 of Chapter 105A of the General Statutes reads as rewritten:

"Chapter 105A.

"Setoff Debt Collection Act.

"Article 1.

"In General.

"§ 105A-1. Purposes.

The purpose of this Chapter is to establish as policy that all claimant agencies and the Department of Revenue shall cooperate in identifying debtors who owe money to the State or to a local government through their various agencies and who qualify for refunds from the Department of Revenue. It is also the intent of this Chapter that procedures be established for setting off against any refund the sum of any debt owed to the State or to a local government. Furthermore, it is the legislative intent that this Chapter be liberally construed so as to effectuate these purposes as far as legally and practically possible.

"§ 105A-2. Definitions.

The following definitions apply in this Chapter:

(1) Claimant agency. – Either of the following:

a. A State agency.

b. A local agency acting through a clearinghouse or an organization pursuant to G.S. 105A-3(b1).

c. A federal agency.

(2) Debt. – Any of the following, except as limited in sub-subdivision (f.) of this subdivision:

- a. A sum owed to a claimant agency that has accrued through contract, subrogation, tort, operation of law, or any other legal theory regardless of whether there is an outstanding judgment for the sum.
 - b. A sum a claimant agency is authorized or required by law to collect, such as child support payments collectible under Title IV, Part D of the Social Security Act.
 - c. A sum owed as a result of an intentional program violation or a violation due to inadvertent household error under the Food and Nutrition Services Program enabled by Part 5 of Article 2 of Chapter 108A of the General Statutes.
 - d. Reserved for future codification purposes.
 - e. A sum owed as a result of having obtained public assistance payments under any of the following programs through an intentional false statement, intentional misrepresentation, intentional failure to disclose a material fact, or inadvertent household error:
 1. The Work First Program provided in Article 2 of Chapter 108A of the General Statutes.
 2. The State-County Special Assistance Program enabled by Part 3 of Article 2 of Chapter 108A of the General Statutes.
 3. A successor program of one of these programs.
 - f. For any school of medicine, clinical program, facility, or practice affiliated with one of the constituent institutions of The University of North Carolina that provides medical care to the general public and for The University of North Carolina Health Care System and other persons or entities affiliated with or under the control of The University of North Carolina Health Care System, the term "debt" is limited to the sum owed to one of these entities by law or by contract following adjudication of a claim resulting from an individual's receipt of hospital or medical services at a time when the individual was covered by commercial insurance, Medicaid, Health Choice, Medicare, Medicare Advantage, a Medicare supplement plan, or any other government insurance.
 - g. A sum owed to the United States government or its federal agencies.
- (3) Debtor. – A person who owes a debt.
- (4) Department. – The Department of Revenue.
- (5) Federal official. – A unit or official of the federal government charged with the collection of nontax debts payable to the federal government pursuant to 31 U.S.C. § 3716.
- (6) Local agency. – Any of the following:
- a. A county, to the extent it is not considered a State agency.
 - b. A municipality.
 - c. A water and sewer authority created under Article 1 of Chapter 162A of the General Statutes.
 - d. A regional joint agency created by interlocal agreement under Article 20 of Chapter 160A of the General Statutes between two or more counties, cities, or both.
 - e. A public health authority created under Part 1B of Article 2 of Chapter 130A of the General Statutes or other authorizing legislation.
 - f. A metropolitan sewerage district created under Article 5 of Chapter 162A of the General Statutes.
 - g. A sanitary district created under Part 2 of Article 2 of Chapter 130A of the General Statutes.

- 1 h. A housing authority created under Chapter 157 of the General Statutes,
2 provided that the debt owed to a housing authority has been reduced to a
3 final judgment in favor of the housing authority.
- 4 i. A regional solid waste management authority created under Article 22 of
5 Chapter 153A of the General Statutes.
- 6 (7) Net proceeds collected. – Gross proceeds collected through setoff against a
7 debtor's refund or nontax payment minus the collection assistance fees provided
8 in G.S. 105A-13.
- 9 (7a) Nontax payment. – A payment, including an expense reimbursement, made by
10 the State to a person. The term does not include a person's salary, wages, or
11 pension or a refund.
- 12 (7b) Person. – Defined in G.S. 105-228.90.
- 13 (8) Refund. – A debtor's North Carolina tax refund.
- 14 (9) State agency. – Any of the following:
- 15 a. A unit of the executive, legislative, or judicial branch of State
16 government.
- 17 b. A local agency, to the extent it administers a program supervised by the
18 Department of Health and Human Services or it operates a Child Support
19 Enforcement Program, enabled by Chapter 110, Article 9, and Title IV,
20 Part D of the Social Security Act.
- 21 c. A community college.
- 22 **"§ 105A-3. Remedy additional; mandatory State usage; optional local usage; obtaining**
23 **identifying information; registration.**
- 24 (a) Remedy Additional. – The collection remedy under this Chapter is in addition to and not
25 in substitution for any other remedy available by law.
- 26 (b) Mandatory State Usage. – A State agency must submit a debt owed to it for collection
27 under this Chapter unless the State Controller has waived this requirement or the State agency has
28 determined that the validity of the debt is legitimately in dispute, an alternative means of collection
29 is pending and believed to be adequate, or such a collection attempt would result in a loss of federal
30 funds. The State Controller may waive the requirement for a State agency, other than the
31 Department of Health and Human Services or a county acting on behalf of that Department, to
32 submit a debt owed to it for collection under this Chapter if the State Controller finds that collection
33 by this means would not be practical or cost effective. A waiver may apply to all debts owed a State
34 agency or a type of debt owed a State agency.
- 35 (b1) Optional Local Usage. – A local agency may submit a debt owed to it for collection
36 under this Chapter. A local agency that decides to submit a debt owed to it for collection under this
37 Chapter must establish the debt by following the procedure set in G.S. 105A-5 and must submit the
38 debt through one of the following:
- 39 (1) A clearinghouse that is established pursuant to an interlocal agreement adopted
40 under Article 20 of Chapter 160A of the General Statutes and has agreed to
41 submit debts on behalf of any requesting local agency.
- 42 (2) The North Carolina League of Municipalities.
- 43 (3) The North Carolina Association of County Commissioners.
- 44 (c) Identifying Information. – All claimant agencies shall whenever possible obtain the full
45 name, social security number or federal identification number, address, and any other identifying
46 information required by the Department from any person for whom the agencies provide any
47 service or transact any business and who the claimant agencies can foresee may become a debtor
48 under this Chapter.
- 49 (d) Registration and Reports. – A State agency must register with the Department and with
50 the State Controller. Every State agency must report annually to the State Controller the amount of

1 debts owed to the agency for which the agency did not submit a claim for setoff and the reason for
2 not submitting the claim.

3 A clearinghouse or an organization that submits debts on behalf of a local agency must register
4 with the Department. Once a clearinghouse registers with the Department under this subsection, no
5 other clearinghouse may register to submit debts for collection under this Chapter.

6 **"§ 105A-4. Minimum debt and ~~refund~~refund or nontax payment.**

7 This Chapter applies only to a debt that is at least fifty dollars (\$50.00) and to a refund or nontax
8 payment that is at least this same amount.

9 **"§ 105A-5. Local agency notice, hearing, and decision.**

10 (a) Prerequisite. – A local agency may not submit a debt for collection under this Chapter
11 until it has given the notice required by this section and the claim has been finally determined as
12 provided in this section.

13 (b) Notice. – A local agency must send written notice to a debtor that the agency intends to
14 submit the debt owed by the debtor for collection by setoff. The notice must explain the basis for
15 the agency's claim to the debt, that the agency intends to apply the debtor's refund or nontax
16 payment against the debt, and that a collection assistance fee ~~of fifteen dollars (\$15.00)~~ provided in
17 G.S. 105A-13 will be added to the debt if it is submitted for setoff. The notice must also inform the
18 debtor that the debtor has the right to contest the matter by filing a request for a hearing with the
19 local agency, must state the time limits and procedure for requesting the hearing, and must state that
20 failure to request a hearing within the required time will result in setoff of the debt.

21 (c) Administrative Review. – A debtor who decides to contest a proposed setoff must file a
22 written request for a hearing with the local agency within 30 days after the date the local agency
23 mails a notice of the proposed action to the debtor. A request for a hearing is considered to be filed
24 when it is delivered for mailing with postage prepaid and properly addressed. The governing body
25 of the local agency or a person designated by the governing body must hold the hearing.

26 If the debtor disagrees with the decision of the governing body or the person designated by the
27 governing body, the debtor may file a petition for a contested case under Article 3 of Chapter 150B
28 of the General Statutes. The petition must be filed within 30 days after the debtor receives a copy of
29 the local decision. Notwithstanding the provisions of G.S. 105-241.21, a local agency is considered
30 an agency for purposes of contested cases and appeals under this Chapter.

31 In a hearing under this section, an issue that has previously been litigated in a court proceeding
32 cannot be considered.

33 (d) Decision. – A decision made after a hearing under this section must determine whether a
34 debt is owed to the local agency and the amount of the debt.

35 (e) Return of Amount Set Off. – If a local agency submits a debt for collection under this
36 Chapter without sending the notice required by subsection (b) of this section, the agency must send
37 the taxpayer the entire amount set off plus the collection assistance fees provided in G.S. 105A-13.
38 Similarly, if a local agency submits a debt for collection under this Chapter after sending the
39 required notice but before final determination of the debt and a decision finds that the local agency
40 is not entitled to any part of the amount set off, the agency must send the taxpayer the entire amount
41 set off plus the collection assistance fees provided in G.S. 105A-13. That portion of the amount
42 returned that reflects the collection assistance fees must be paid from the local agency's funds.

43 If a local agency submits a debt for collection under this Chapter after sending the required
44 notice and the net proceeds collected that are credited to the local agency for the debt exceed the
45 amount of the debt, the local agency must send the balance to the debtor. No part of the collection
46 assistance fees provided in G.S. 105A-13 may be returned when a notice was sent and a debt is
47 owed but the debt is less than the amount set off.

48 Interest accrues on the amount of a refund returned to a taxpayer under this subsection in
49 accordance with G.S. 105-241.21. A local agency that returns a refund to a taxpayer under this
50 subsection must pay from the local agency's funds any interest that has accrued since the fifth day
51 after the Department mailed the notice of setoff to the taxpayer.

1 **"§ 105A-6. Procedure Department to follow in making setoff.**

2 (a) Notice to Department. – A claimant agency seeking to attempt collection of a debt
3 through setoff must notify the Department in writing and supply information necessary to identify
4 the debtor whose refund or nontax payment is sought to be set off. The claimant agency may
5 include with the notification the date, if any, that the debt is expected to expire. The agency must
6 notify the Department in writing when a debt has been paid or is no longer owed the agency.

7 (b) Setoff by Department. – The Department, upon receipt of notification, must determine
8 each year whether the debtor to the claimant agency is entitled to a refund ~~of or nontax payment and~~
9 ~~whether the amount is~~ at least fifty dollars ~~(\$50.00) from the Department. (\$50.00).~~ Upon
10 determination by the Department that a debtor specified by a claimant agency qualifies for such a
11 ~~refund, refund or nontax payment~~, the Department must set off the debt against the refund or nontax
12 payment to which the debtor would otherwise be entitled and must refund any remaining balance to
13 the debtor. The Department must mail the debtor written notice that the setoff has occurred and
14 must credit the net proceeds collected to the claimant agency. If the claimant agency is a State
15 agency, that agency must credit the amount received to a nonreverting trust account and must
16 follow the procedure set in G.S. 105A-8.

17 **"§ 105A-6.1. State Reciprocal Offset Program.**

18 (a) Agreement. – The Department is authorized to enter into an agreement with the
19 Secretary of the Treasury to participate in the State Reciprocal Offset Program pursuant to 31
20 U.S.C. § 3716 for the collection of any debts owed to the State or to State agencies from federal
21 payments to vendors, contractors, and taxpayers. The agreement may provide for the United States
22 to submit nontax debts owed to federal agencies for offset against State payments otherwise due and
23 owing to taxpayers, vendors, and contractors providing goods or services to the State, its
24 departments, agencies, or institutions.

25 (b) Federal Certification. – Pursuant to the agreement authorized in subsection (a) of this
26 section, a federal official may certify to the Department the existence of a person's delinquent,
27 nontax debt owed by the person to the federal government. To accept the certification provided by
28 the federal official, the certification must include the name of the person, the person's Social
29 Security number or federal tax identification number, and the amount of the person's nontax debt
30 and may include any other information pursuant to the agreement authorized herein.

31 (c) Offset. – Upon receiving a federal certification complying with subsection (b) of this
32 section and a request by the federal official that the Department withhold a refund or nontax
33 payment, the following provisions, as required or permitted by State law, federal law, or the offset
34 agreement, apply:

35 (1) The Department may determine if a person for whom the federal certification is
36 received is due a refund or nontax payment.

37 (2) If the person for whom the federal certification is received is due a refund or
38 nontax payment, the Department shall (i) withhold the refund or nontax payment
39 due, (ii) notify the person of the amount withheld in the manner required by the
40 offset agreement, and (iii) remit to the federal official the lesser of the entire
41 amount of the refund or nontax payment or the amount certified.

42 (3) If the amount certified is less than the refund or nontax payment, the Department
43 shall pay the excess to the person less the collection assistance fee provided in
44 G.S. 105A-13.

45 (d) State Certification. – As permitted by State law, federal law, and the offset agreement,
46 the Department may certify to a federal official a person's delinquent debt owed to the State by
47 providing the federal official the name of the person, the person's Social Security number or tax
48 identification number, the amount of the debt due the State, and any other information required by
49 the offset agreement. The Department may request that the federal official withhold any federal
50 vendor or other federal payment pursuant to the offset agreement to which the person is entitled.

1 (e) Proceeds Retention. – The retention of a portion of the proceeds of any federal
2 administrative setoff pursuant to 31 C.F.R. § 285.6 does not affect the provisions of this section.

3 ...
4 **"§ 105A-8. State agency notice, hearing, decision, and refund of setoff.**

5 (a) Notice. – Within 10 days after a State agency receives a refund or nontax payment of a
6 debtor, the agency must send the debtor written notice that the agency has received the debtor's
7 ~~refund~~ refund or nontax payment. The notice must explain the debt that is the basis for the agency's
8 claim to the debtor's refund or nontax payment and that the agency intends to apply the refund or
9 nontax payment against the debt. The notice must also inform the debtor that the debtor has the
10 right to contest the matter by filing a request for a hearing, must state the time limits and procedure
11 for requesting the hearing, and must state that failure to request a hearing within the required time
12 will result in setoff of the debt. A State agency that does not send a debtor a notice within the time
13 required by this subsection must refund the amount set off plus the collection assistance fee, in
14 accordance with subsection (d) of this section.

15 (b) Hearing. – A hearing on a contested claim of a State agency, except a constituent
16 institution of The University of North Carolina or the Division of Employment Security, must be
17 conducted in accordance with Article 3 of Chapter 150B of the General Statutes. A hearing on a
18 contested claim of a constituent institution of The University of North Carolina must be conducted
19 in accordance with administrative procedures approved by the Attorney General. A hearing on a
20 contested claim of the Division of Employment Security must be conducted in accordance with
21 rules adopted by that Division. A request for a hearing on a contested claim of any State agency
22 must be filed within 30 days after the State agency mails the debtor notice of the proposed setoff. A
23 request for a hearing is considered to be filed when it is delivered for mailing with postage prepaid
24 and properly addressed. In a hearing under this section, an issue that has previously been litigated in
25 a court proceeding cannot be considered.

26 (c) Decision. – A decision made after a hearing under this section must determine whether a
27 debt is owed to the State agency and the amount of the debt.

28 (d) Return of Amount Set Off. – If a State agency fails to send the notice required by
29 subsection (a) of this section within the required time or a decision finds that a State agency is not
30 entitled to any part of an amount set off, the agency must send the taxpayer the entire amount set off
31 plus the collection assistance fee retained by the Department. That portion of the amount returned
32 that reflects the collection assistance fee must be paid from the State agency's funds.

33 If a debtor owes a debt to a State agency and the net proceeds credited to the State agency for
34 the debt exceed the amount of the debt, the State agency must send the balance to the debtor. No
35 part of the collection assistance fee retained by the Department may be returned when a debt is
36 owed but it is less than the amount set off.

37 Interest accrues on the amount of a refund returned to a taxpayer under this subsection in
38 accordance with G.S. 105-241.21. A State agency that returns a refund to a taxpayer under this
39 subsection must pay from the State agency's funds any interest that has accrued since the fifth day
40 after the Department mailed the notice of setoff to the taxpayer.

41 **"§ 105A-9. Appeals from hearings.**

42 Appeals from hearings allowed under this Chapter, other than those conducted by the Division
43 of Employment Security, shall be in accordance with the provisions of Chapter 150B of the General
44 Statutes, the Administrative Procedure Act, except that the place of initial judicial review shall be
45 the superior court for the county in which the debtor resides. Appeals from hearings allowed under
46 this Chapter that are conducted by the Division of Employment Security shall be in accordance with
47 the provisions of Chapter 96 of the General Statutes.

48 ...

49 **"§ 105A-12. Priorities in claims to setoff.**

50 The Department has priority over all other claimant agencies for collection by setoff whenever it
51 is a competing agency for a ~~refund~~ refund or nontax payment. State agencies have priority over

1 federal or local agencies for collection by setoff. When there are multiple claims by State agencies
2 other than the Department, the claims have priority based on the date each agency registered with
3 the Department under G.S. 105A-3. When there are multiple claims by two or more organizations
4 submitting debts on behalf of federal or local agencies, the claims have priority based on the date
5 each organization registered with the Department under G.S. 105A-3. When there are multiple
6 claims among federal or local agencies whose debts are submitted by the same organization, the
7 claims have priority based on the date each federal or local agency requested the organization to
8 submit debts on its behalf.

9 **"§ 105A-13. Collection assistance fees.**

10 (a) State Setoff. – ~~To Except as provided in subsection (b1) of this section, to recover the~~
11 costs incurred by the Department in collecting debts under this Chapter, a collection assistance fee
12 of five dollars (\$5.00) is imposed on each debt collected through setoff. The Department must
13 collect this fee as part of the debt and retain it. The collection assistance fee shall not be added to
14 child support debts or collected as part of child support debts. Instead, the Department shall retain
15 from collections under Division II of Article 4 of Chapter 105 of the General Statutes the cost of
16 collecting child support debts under this Chapter.

17 (b) Repealed by Session Laws 2001-380, s. 3, effective November 1, 2001.

18 (b1) Federal Debts. – To recover the costs incurred by the Department in collecting debts on
19 behalf of a federal agency under this Chapter, a collection assistance fee equal to the fee charged by
20 the federal government for similar debt collection efforts is imposed on each debt collected through
21 setoff. The Department must collect this fee as part of the debt and retain it.

22 (c) Local Debts. – To recover the costs incurred by local agencies in submitting debts for
23 collection under this Chapter, a local collection assistance fee of fifteen dollars (\$15.00) is imposed
24 on each local agency debt submitted under G.S. 105A-3(b1) and collected through setoff. The
25 Department must collect this fee as part of the debt and remit it to the clearinghouse that submitted
26 the debt. The local collection assistance fee does not apply to child support debts.

27 (d) Priority. – If the Department is able to collect only part of a debt through setoff, the
28 collection assistance fee provided in subsection (a) of this section has priority over the local
29 collection assistance fee and over the remainder of the debt. The local collection assistance fee has
30 priority over the remainder of the debt.

31 **"§ 105A-14. Accounting to the claimant agency; credit to debtor's obligation.**

32 (a) Simultaneously with the transmittal of the net proceeds collected to a claimant agency,
33 the Department must provide the agency with an accounting of the setoffs for which payment is
34 being made. The accounting must whenever possible include the full names of the debtors, the
35 debtors' social security numbers or federal identification numbers, the gross proceeds collected per
36 setoff, the net proceeds collected per setoff, and the collection assistance fee added to the debt and
37 collected per setoff.

38 (b) Upon receipt by a claimant agency of net proceeds collected on the claimant agency's
39 behalf by the Department, a final determination of the claim if it is a State agency claim, and an
40 accounting of the proceeds as specified under this section, the claimant agency must credit the
41 debtor's obligation with the net proceeds collected.

42 **"§ 105A-15. Confidentiality exemption; nondisclosure.**

43 (a) Notwithstanding G.S. 105-259 or any other provision of law prohibiting disclosure by
44 the Department of the contents of taxpayer records or information and notwithstanding any
45 confidentiality statute of any claimant agency, the exchange of any information among the
46 Department, the claimant agency, the organization submitting debts on behalf of a local agency, and
47 the debtor necessary to implement this Chapter is lawful.

48 (b) The information a claimant agency or an organization submitting debts on behalf of a
49 local agency obtains from the Department in accordance with the exemption allowed by subsection
50 (a) may be used by the agency or organization only in the pursuit of its debt collection duties and

1 practices and may not be disclosed except as provided in G.S. 105-259, 153A-148.1, or
2 160A-208.1.

3 **"§ 105A-16. Rules.**

4 The Secretary of Revenue may adopt rules to implement this Chapter. The State Controller may
5 adopt rules to implement this Chapter."
6
7

8 **House Only**

9 **INFORMATION TECHNOLOGY SECURITY POSITIONS**

10 **SECTION 28.4.** Notwithstanding any other provision of this act, the Department of
11 Revenue shall use only receipts from the Information Technology Security Reserve Fund to fund
12 three full-time equivalent positions to help secure the data of the Department. The Department shall
13 not use monies from the General Fund to support these positions.